VOLUME TWO NUMBER SIX

AUGUST 1970
ONE DOLLAR

The Washington Monthly

Sam Brown On The [illegible]litics [illegible] [illegible]ace:

TH[illegible]URE OF LEADERSHIP
HO[illegible]MIDDLE AMERICA?
LIMITS OF STUDENT POWER

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Red, White, Blue, and Gold: The Oil Import Quotas
by Martin Lobel
A case history in economic addiction: how oil got hooked on government welfare, notably on the quotas that come labeled "national security." Now oilmen's fears of foreign competition may help Republicans beat the high cost of campaigning. 8

Freedom on a String
by Paul Dickson
Since 1736, if not earlier, governments have been putting down the humble kite. 19

The Politics of Peace
by Sam Brown
In his first published analysis of the peace movement, the organizer of Students-for-McCarthy and coordinator of the Vietnam Moratorium probes the conditions and attitudes that have hampered the opposition to the war—and outlines a strategy for the future. 24

Claude Pepper's Crime Stoppers
by Eric Lax
Slam! Bang! Zap! The House Select Committee on Crime proves it is possible, even with a redhot topic, to grab the ball and run in circles. 48

THE CULTURE OF BUREAUCRACY: Washington's Other Crime Problem
by John H. Rothchild
Government persistently breaks the law because it's easier that way and no one who matters objects. Is this the future? 55

LETTERS 4

MEMO OF THE MONTH 54

THE POLITICAL PUZZLE 7

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Letters

Crime in the Courts

Leonard Downie's "Crime in the Courts" (May) is unjustifiably pessimistic about the possibilities for solutions to what is obviously a complete breakdown in the operation of our criminal justice system. The remedy is not, as Downie seems faintly to imply, more money, more judges, etc. Rather, what we need to do is "decriminalize." If we repeal the laws making it a criminal offense to get drunk, gamble, take narcotics and other dangerous drugs, engage in heterodox sexual activities, such as prostitution, homosexuality, etc., the criminal calendars would be cut back by at least three-quarters. As I stated in my recent book, *The Limits of the Criminal Sanction*:

> In the end, the question of alternatives, including the alternative of doing nothing (or less), is a question of resource allocation. We cannot have everything we want of the good things of this world; and that includes, unfortunately, the prevention of the bad things. We must weigh costs and assign priorities. This we have not done, as a glance at the calendar of crimes will readily demonstrate. After all the factors have been considered and somehow weighed, there always remains the question: what alternatives do we have, and finally, are we better off doing nothing? It goes very much against the American grain to adopt the alternative of doing nothing. We do not coexist easily with "evil." And yet it seems clear that in some contexts in which the use of the criminal sanction is at issue, the alternative of doing nothing provides the best available answer.

There is an obvious analogy to our Vietnam policy here. Leaving the morality of the war aside, we badly need to reduce our commitments to match our capabilities. The Moral for our ineptly named "war on crime" seems obvious.

HERBERT L. PARKER
Stanford, Calif.

Mr. Parker is a professor of law at the Stanford Law School.

It is with great interest that I read Leonard Downie's perceptive article on "Crime in the Courts" (May). Mr. Downie is to be congratulated for his eye for the colorful detail, as well as for the accuracy of his over-all assessment of the conditions which unfortunately exist in a great many of our state and federal courts. Some of the conditions which he discusses in his review have also been found by the President's Crime Commission in its 1967 Report. Mr. Downie's article indicates that, in spite of the thoroughly justified criticisms made in 1967, very little has changed.

As you know, great efforts have been made in the District to overcome these kinds of problems to the extent that they were prevalent here. We are hopeful that, with the advent of court reorganization, the District of Columbia courts will make further strides toward the achievement of a criminal justice system which is both efficient and fair.

HAROLD H. GREENE
Washington, D. C.

Mr. Greene is Chief Judge of the District of Columbia Court of General Sessions.

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Latin America

I agree with Dan Gottlieb ("Military Dictatorships: Why Rockefeller's Wrong," May) that "It should be possible for the United States to find a role [in Latin America] that identifies it with forces for change and representative government without resorting to intervention." As you know, I have expressed similar views over the years while proposing increased emphasis on social change and comprehensive development in U.S. foreign aid programs. The Inter-American Social Development Institute which I proposed and which the Congress authorized by statute last year is a part of this effort. I hope that the Administration, after a six-month delay, will move to implement that legislation.

This, of course, is just one step in the right direction. The larger problem of differentiating in our aid program between governments which pursue the twin goals of development and representative democracy, and those which do not, is still with us. Mr. Gottlieb's article makes a valuable contribution to the debate on this subject.

DANTE B. FASCELL
Washington, D. C.

Mr. Fascell is chairman of the House Subcommittee on Inter-American Affairs.

Rebuttal from M.I.T.

I doubt that many of your readers will be other than amused at L. Fletcher Prouty's reference in your May issue to the Center for International Studies at M.I.T. as "CIA-run." However, no doubt some of your readers do not know us well, and although such statements as Mr. Prouty's often outrun corrections, some information about the Center may be useful.

For some years after the Center was founded in 1951, we did have research contracts with the CIA together with contracts with AID and grants from the Ford Foundation, the Carnegie Endowment for International Peace, the Rockefeller Foundation, the National Science Foundation and a number of other granting institutions. Those from the CIA were for basic research on topics of our choice concerning the Soviet bloc countries, international relations, and economic development. They were sponsored and accepted on the not entirely naive assumption that scholarly analysis might improve U.S. public policy. Scholarly books and many articles in journals resulted.

During this period the Center's advisory committee, which met periodically to assess our work, included among other distinguished citizens Robert A. Lovett, John Cowles, McGeorge Bundy (then Dean of Harvard College), Laurance S. Rockefeller, and Kingman Brewster, Jr. These gentlemen knew fully all of our research work—that is, all of our work. Anyone who thinks that they would have sanctioned any work not fully controlled by M.I.T. with full integrity in the normal academic way is, if I may use a British phrase, out of his flippin' mind. And what should one think of an editorial staff that lets such a phrase as Mr. Prouty's get into print?

EVERETT E. HAGEN
Cambridge, Mass.

Mr. Hagen is Acting Director of the Center for International Studies.

Peace Corps Politics

They should require a saliva test of anyone who volunteers for Peace Corps after Blatchford's memo (June).

DONOVAN McCLURE
Charleston, W. Va.

As a (Democratic) member of the House Foreign Affairs Committee, I feel compelled to comment on the Peace Corps memorandum relating to protests and recruitment procedures (June). The thrust of the memorandum, dramatically substantiated by the deleted provisions from the original draft, is most disquieting.

Recently, the Foreign Affairs Committee by a 12 to 10 vote approved a Peace Corps Act amendment that would explicitly give the Director the power to act against any volunteer who was behaving in a manner detrimental to the "best interest of the United States."

This amendment smacks of the same demand for political conformity and suppression of free thought that the memo did. I believe the views of the 10 Congressmen who voted against the amendment are an appropriate response:

> The amendment seems aimed at suppressing dissent among the young men and women who volunteer for Peace Corps Service. It was adopted under the misimpression of Committee members that the Peace Corps Director does not now have the power to discipline volunteers, including terminating their service, if the need arises.
>
> We have been assured by the General Counsel of the Peace Corps that this is not the case. The Peace Corps Director has broad powers, as chief executive

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officer of the Corps, delegated by the President, to prescribe regulations to prevent employees from acting detrimentally to the national interest. The Director's powers, of course, are limited by the guarantees given by the Constitution, particularly the First Amendment guarantees of free speech.

The amendment is clearly superfluous verbiage and unnecessary legislation. Moreover, it appears to represent Congressional action against the employees of one agency with employees serving abroad, while saying nothing about employees of other agencies and departments with extensive international operations such as the Department of State, A.I.D. and U.S.I.A. Because the Peace Corps is so closely identified with youth—in a way the other agencies are not—this amendment can only be construed as a slap at dissent among our young people.

BENJAMIN S. ROSENTHAL
Washington, D. C.

Mr. Rosenthal is a member of Congress from the Eighth District, New York.

On USIA

It is important in the public interest to bring out certain facts and a point of view which Bruce J. Oudes regrettably omitted in his interesting and timely article "The Great Wind Machine" (June).

Certainly we agree with Mr. Oudes' critical evaluation of the faulty strategy and tactics of the USIA, as presently conducted. But there is no more reason to abolish it than to abolish medicine or law, because of an inadequate practitioner. Experts drawn from the fields of government, education and communications, who participated in a one-day conference on the case for reappraisal of U.S. overseas information policies and programs, held at the Overseas Press Club last October, confirmed many of Mr. Oudes' criticisms about USIA. With one exception, however, they supported the case for its reappraisal by a commission of experts, not its abolition. They expressed the belief that the agency would fill a useful necessary function, if administered in accord with present-day knowledge of the art and science of communication.

Disinterested social scientists have stressed the need for such an organization. The attitudes of one people towards another, they have found, are often based on simplistic notions, reinforced by prejudice, false stereotypes and ignorance. To allow this situation to remain, they state, is dangerous to our national welfare, since it may bring about actions of other peoples towards us, which are based on illusion instead of reality. Only through a continuing activity aimed to correct this situation can we assure sound relations between us and other people.

Unfortunately, contrary to Mr. Oudes' statement, we cannot depend on the routine channels of mass communication between countries for a balanced picture. Mass media in most countries, whether privately or government owned, usually appeal to existing stereotypes, whether true or false.

EDWARD L. BERNAYS
Cambridge, Mass.

Mr. Bernays is chairman of the Emergency Committee for a Reappraisal of United States Overseas Information Policies and Programs.

The author, Bruce J. Oudes, replies:

Of course the media do less than a perfect job of describing America, even if one assumes that they, or anyone else, know the difference between "illusion" and "reality." But the history of USIA is abundant proof that whatever the media do poorly, the government does worse.

Besides, Mr. Bernays' letter reads like an agency product. That's one more reason to abolish the place.

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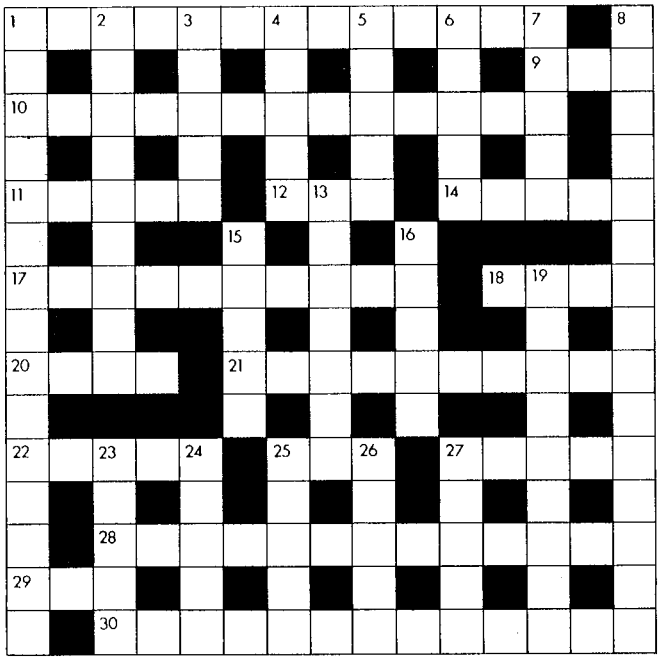
The Political Puzzle

by John Barclay



Across

1. Predecessor backs into chief. (6,1,6)
9. Venerable lie in New Haven. (3)
10. Much of what nine hear is large name glut. (5,8)
11. Five less will make it void of sense. (5)
12. Long range thinking? (3)
14. In this nine you may be bored. (5)
17. Habitat for queen at 16. (10)
18. It can be very sticky here. (1,3)
20. Defense Department shut out, becomes extinct. (4)
21. Shellfish king. (6,4)
22. A lie, no tease, may win office in California. (5)
25. The Twentieth Century in short. (3)
27. Take as bet to cook or sew. (5)
28. He can reach jail nuts from the bench. (7,6)
29. The Khan is in again. (3)
30. Rookie Minnesota Twin makes first nine. (5,8)

Down

1. Mail would go sail, if his revolution came about. (7,1,7)
2. Back to the barbecue as the girl leer'd. (9)
3. With a cleat, he is brilliant. (5)
4. Weird find at one end of lake. (5)
5. In pursuit of power, get it out. (5)
6. These require more than a gander. (5)
7. Use inert process to conserve. (5)
8. One of the nine will jam barn. (7,1,7)
13. Another demonstrates cooking skill. (7)
15. Good place to talk turkey? (They can mark you up!) (5)
16. No solace in this gismo, keep looking elsewhere for health. (5)
19. Ride Jule's mare to the Wailing Wall. (9)
23. Hornsby was a prince with the Indians. (5)
24. So her fireman is at times. (5)
25. Revolution in Italy deports Pope. (5)
26. Fifty obscene men come up to live here. (5)
27. High point of European trip comes at the end. (5)

The numbers indicate the number of letters and words, e.g., (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word. Answers to this month's puzzle will appear in the next issue. Answers to last month's puzzle are on page 53

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Red, White, Blue & Gold: The Oil Import Quotas

by Martin Lobel

The American consumer pays high prices for oil products so that the United States can save its oil in the interest of national security—but the nation is using up its oil faster than is the rest of the world.

The consumer pays more for oil so that the oilmen will search more diligently for oil—but they aren't spending as much time looking as they used to.

techniques more sophisticated...

The consumer is denied access to all but a fraction of the cheap oil produced overseas by American companies—even though the consumer, in his role as taxpayer, subsidizes those companies' payments to foreign rulers for the right to extract that oil.

These are highlights of the oil import quota system—a federal giveaway that has grown to be by far the largest of the public favors granted to the oil industry. The current estimate is that oil quotas alone cost the public $5 to $7 billion a year, and that the bill will grow to at least $8.4 billion by 1980. For the consumer at the gas pump that means, today, close to an extra 5.7 cents a gallon.

The expensive absurdities of the oil quotas have not gone entirely unnoticed. Complaints from consumer-oriented Senators, such as Hart, Kennedy, Muskie and Proxmire led in 1969 to the reluctant formation of a Presidential task force to study oil imports. Early this year the task force recommended a shift from quotas to tariffs that would have reduced the amount of the giveaway. President Nixon then sent the task force

Martin Lobel is legislative assistant to Senator William Proxmire.

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ENGELHARDT

The St. Louis Post-Dispatch

Camouflage

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back to the drawing board with instructions to report again after the November election—ample time for the oil industry to demonstrate its generosity to Republican candidates. (Ample time also for the oil lobby to work on Congress for some additional insurance. At present, a simple executive order could alter or abolish the program; but the oilmen have already pushed a bill through the House Ways and Means Committee which would require an act of Congress to change the quota system.)

The struggle over the import quotas is taking place against the background of a long government involvement in the oil industry, an involvement that has always failed to meet its stated objectives, but has always met the desires of the industry. Each subsidy obtained by the industry has only weakened its ability to compete, requiring further subsidy, so that the American oil business today is an economic cripple dependent on government support—a wealthy welfare case.

Come in the Back Door

The history and operations of the oil import quota program illustrate the ability of special interests to get what they want by administrative fiat and to retain it because few people are aware of what is going on. Established 11 years ago by President Eisenhower, the program was immediately decked out in the unassailable armor of national security and later brought within the provisions of the Trade Expansion Act of 1962. Ostensibly, the restrictions imposed on the importation of oil from abroad were for the purpose of encouraging the development of sufficient available domestic reserves to meet any shortage caused by an interruption in the flow of foreign oil.

The real reason for the establishment of the quota system was considerably less lofty. It was simply that oilmen in the United States were having trouble competing with imported oil. Partly by design, American wells produce at a comparatively slow rate; and the result is that domestic crude oil costs East Coast refineries roughly $3.90 a barrel, while comparable oil from the Middle East costs only about $2.25, including freight and tariff.

Rather than argue for assistance on the floor of Congress, under public scrutiny, the oil industry managed to prevail on President Eisenhower to help them out through the back door by means of an executive order. Today the industry is still careful to discuss the program in the most pious of terms. "It is almost incredible," wrote Kerryn King, Texaco's vice president for public relations, in a fund-raising letter not long ago, "how many Congressmen are willing to sacrifice the national security of this country to the siren song of low-cost foreign oil. Those of us in the oil industry know that the strength of our nation is dependent on an adequate supply of energy that cannot be cut off, interdicted, or held back according to political whim or national emergency. . . ."

Few people in the government have ever realized what the import quota system entails. Only those most intimately involved knew the extent to which profit, not emergency preparedness, was the issue. "The imposing of import quotas on oil," Sherman Adams writes in his memoirs, "was primarily an economic decision."

The quota program limits imports east of the Rockies to 12.2 per cent of estimated domestic production. For the five states west of the Rockies, the limit is the estimated difference between demand and domestic supply. Domestic producers are fully protected from foreign competition since imports are limited to the oil needed *after* all domestic oil is sold. In practice, foreign oil constitutes about 20 per cent of total U.S. oil consumption—about one billion of five billion barrels used annually—because of special exemptions like the one for residual oil. Residual oil, which is a cheap crude product, is used by utilities, industrial plants, apartment and office buildings, schools, hospitals, and other institutions. It has been exempt

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from restrictions since 1966, primarily because of its low profitability and the political power of its users.

The right to import any portion of the oil quota into the protected American market is indeed valuable, for it gives the importer a margin between the world price and the U.S. price for crude oil worth about $1.50 a barrel. The government could have decided to sell the import licenses to domestic refiners at $1.50, reaping a turnover profit of about $1.5 billion on annual imports of one billion barrels. This bonanza could then have been returned to the taxpayers in the form of lower taxes or lower deficits —take your pick. Instead, the government decided to *give* the import licenses to the oil industry, allowing the beneficiaries to gather a double profit from the protected market: higher prices for oil produced domestically *and* the profits on retailing imported oil at the high domestic prices.

Import quotas are figured by the Interior Department's Oil Import Administration, which is headed by ex-Oklahoma oilman Jake Simmons, and "allocations" are made to refineries on a sliding scale: the smaller the refinery, the larger the percentage of its output that may derive from imported oil. Import tickets (each ticket representing permission to acquire one barrel) are allocated to all domestic refineries, including those too far inland to economically use foreign oil. Forbidden to sell their rights to the oil, these inland refineries "exchange" their import tickets with refineries on the East Coast, receiving in return the equivalent value of domestic oil—usually that produced in the inland area by affiliates of the coastal refinery.

The import quota system might be slightly more tolerable if it worked—that is, if the maintenance of high prices gave oil producers enough incentive to explore for new sources of domestic oil. It doesn't. On the contrary, import quotas protect a labyrinth of state [proration] laws which have proved inefficient, perhaps even counterproductive, as stimulants to oil discovery.

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Proration, or the setting of quotas for domestic production, is the oldest form of government intervention in the market mechanism of the oil industry. The practice grew out of the wasteful methods which characterized oil extraction until after World War I. Before that, oil producers often engaged in mad scrambles to get oil out of the ground, regardless of waste, because the courts had established that any number of drillers could tap a single pool of oil and that the riches belonged to whoever pumped them up.

Oklahoma enacted the first conservation statute in 1919, but such legislation was largely ignored in the Twenties because high oil prices made producers extremely wary of any regulation. The federal government prodded the states and oil companies toward conservation measures during the roaring years, partly by hinting to the fiercely independent oil corporations that they were overlooking the virtues of regulating production. The Oil Conservation Board, created by President Coolidge in 1924, pushed this line through such documents as the February, 1929, report, whose principal recommendation was: "Federal legislation which shall (a) unequivocally declare that agreements for the cooperative development and operation of single pools are not in violation of the Federal Antitrust laws, and (b) permit, under suitable safeguards, the making in times of overproduction, of agreements among oil producers for the curtailment of production."

Conservation legislation lay dormant until the Depression and the discovery of the East Texas oilfield (1930) drove oil prices as low as 10 cents a barrel in another round of cutthroat drilling and heavy waste. Oklahoma, Texas, and Louisiana began to enforce laws designed to stop the physical waste by setting maximum efficient rates (MER) of production. Such MER proration sets quotas for all rigs drilling into a single reservoir, so that each rig can pump efficiently.

MER proration is undoubtedly the most benign of the government interventions in the oil market, for its conservation provisions were sorely needed. But the machinery of conservation was extremely vulnerable to a second kind of proration—market demand—which used conservation regulations to curtail production in the interest of artificially high prices. Texas led the way with the Market Demand Act of 1932, allowing the Texas Railroad Commission to expand its duties as the administrative arm of MER proration to prevent "economic" waste by rationing production to meet demand. In effect, the Railroad Commission held together a cartel of Texas oil producers, restricting output and raising prices. Other oil states followed suit, and by the end of the Depression the proration system was too lucrative to be abandoned. Enforcement of the state restrictions has been aided by the Connally "Hot Oil" Act, which prohibits interstate shipments of oil produced in excess of state regulations.

The oil companies and oil state officials employ some of the most specious economic reasoning on record to deny that market demand prorationing has any price-fixing effect. They argue that the restrictions merely insure that no more oil will be supplied than consumers demand. Thus, William J. Murray, Jr., chairman of the Texas Railroad Commission, told the Senate Subcommittee on Antitrust and Monopoly that "market demand proration simply means that the production of crude oil will be restricted to that amount which, when refined into petroleum products, will supply the needs of all the consumers of the nation for each and all of the multitude of petroleum products." He ignored the basic economic law of supply and demand—if the price is low, users will demand more oil. In reality, the major oil companies set a high non-competitive price for crude oil, and then the state regulatory authorities protect that price by making sure no excess oil is produced.

By the end of World War II, prorationing had insulated the domestic oil industry from competitive price cutting.

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At the time, foreign oil did not seem to be a threat to domestic prices. In 1948, the United States produced about two-thirds of the world's crude oil and possessed one-third of the world's proven reserves, so *we* set the trends in world petroleum prices. We imported only about 200 million barrels annually; few foreign companies could produce oil more cheaply than the Americans. A decade later, in 1958, the United States produced only one-third of the world's oil and possessed one-ninth of the proven reserves. New oil fields were opening in Canada, North Africa, and Kuwait. The proration system held U.S. oil prices up, even though the prevailing world price began a long downward trend. High American prices, combined with rapidly growing domestic consumption, caused imports to triple over the 10-year period.

The oil industry realized that domestic prices could not be kept high without protection from inexpensive foreign oil. Having built market demand proration on the back of conservation measures, the crowd from Texas determined that yet a third form of government intervention was required—import quotas to make sure that a free market would not operate. This was sold to the public (insofar as it was impossible to avoid saying anything) on the grounds that domestic production was essential to national security and high prices stimulated the discovery of new oil reserves.

Nothing of Value

The high prices have not succeeded in protecting the domestic supply. Each year, Americans consume more than one-third of the 14-plus billion barrels of oil used in the world. We do so by using about one-ninth of our reserves, at high prices, while the rest of the world uses only 1/39th of its collective reserves, at low prices. The margin between U.S. and world prices has continued to grow behind the barrier of the quota program as foreign oil prices fall. A barrel of Arabian light crude, for example, could be delivered to the United States for $2.48 in 1959, $2.08 in 1963, and $1.87 in 1966.

United States proven oil reserves, which had risen from 20 to 30 billion barrels between the end of World War II and 1958, are still at about 30 billion barrels, and we are now using oil more rapidly than it is being discovered. Seismographic crew time, a measure of the basic oil seeking activity in the industry, has declined from about 7,000 crew weeks per year in the middle Fifties to 3,337 crew weeks in 1967. The success ratio of wildcat drillings has declined.

Moreover, government intervention in the oil market actually discourages the seeking of new low-cost oil. State proration restrictions exempt small wells from the quotas and restrict larger wells in proportion to their size. Thus, small marginal producers are allowed to pump at full capacity, but large producers, who are more efficient because of economies of scale, must restrict their output. The result is that average costs are much higher than they would be in a free market. There is accordingly less loose capital which might be used on exploration. Furthermore, underuse of existing capacity reduces the industry's inclination to seek new sources. And underutilization has often been quite extensive. In 1968, for instance, proration required that Texas wells be shut down 201 days, or 55 per cent of production time. In 1962, Texas wells were shut down 268 days, or 73 per cent of production time.

The import quota system was to have provided an additional spur to exploration, since the revenues from the import tickets would be largely devoted, in the industry's reasoning, to the quest for cheap oil. But that never happened, for the federal government decided to allocate the tickets to the *refiners*, not to producers. The distinction would not be important if most domestic exploration were done by the integrated major companies, such as Standard Oil and Gulf, which can shuffle funds at will among their subsidiary producers, refiners, distributors, and retailers. But nearly 80 per cent of onshore exploratory drilling is

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done by non-integrated independent producers, who receive no benefit from import tickets. As one independent Kansas producer put it, "Giving import tickets to refineries is like giving a grain subsidy to the miller." The result is that the refinery makes higher profits, but the scattered thousands of oil producers have little incentive to increase production. In fact, far from helping the small producer, the quotas put him at a disadvantage in competing for the lucrative domestic sources, offshore and Alaska, with the major companies who are in effect capitalized by the quota subsidy.

As the Kansas oilman's statement demonstrates, the petroleum industry is not unified in its support of the present import quota system. The independents, who originally pushed for the program because their small size made them vulnerable to foreign competition and because they had no holdings of foreign oil, are now split over the issue. The independent refiners ardently support the quotas, becoming nearly apoplectic whenever anyone verbally tampers with the import ticket system. Independent producers, however, find that much of the government money is siphoned off elsewhere and are consequently disgruntled, but they cannot agree upon an alternative. Several small producers have suggested that the government directly subsidize the exploration for new pools of cheap oil. Such subsidized wells could then be capped as stand-by sources of oil for emergencies.

The major oil companies see little humor in the capping proposal. It threatens their profits from domestic production. The majors have found that they benefit enormously from the quota system—world markets continue to expand for their foreign oil, while domestic price supports augment their coffers at home. They have it both ways, and the major oil companies (the top five of which had *net* incomes of more than $5 billion in 1967) combine with the independent refiners to provide the muscle of the import quota lobby.

The petrochemical companies (including Union Carbide, DuPont, Monsanto, Dow, and Olin Mathieson) which make plastics, chemicals, fibers, and rubber from oil derivatives, object to the system because it deprives them of access to cheap raw materials, making competition in the international petrochemical markets difficult. Their opposition, however, could probably be quieted by special dispensations from the quotas.

Counting Oil's Blessings

For the American taxpayer, the import quota system is a disaster. The import ticket program provides an indirect transfer payment of $1.5 billion from taxpayers through the federal government to the oil companies. In addition, a 1970 study for the White House Office of Science and Technology estimates, the import quotas transfer $4.3-$5.6 billion from consumer pockets to the oilmen by protecting their cartel-level prices for domestic petroleum. Thus, the total cost to consumers is estimated at $5.6-$6.9 billion per year. There are slightly lower estimates, such as the 1969 Office of Emergency Preparedness figure of $5.2 billion (and which, to illustrate the influence of the industry, was the first cost analysis of the program ever made). Even this conservative estimate means the average American family of four paid $96 more for oil in 1969 than it would have without the quota system, although on a state-by-state basis the cost varies from a high of $228 in Wyoming to a low of $44 in Hawaii.

The quota systems (domestic proration and import restriction) are far from the whole blessing bestowed by the government upon those who traffic in black gold. There is, of course, the oil depletion allowance, which, before it was reduced this year, transferred $2.25-$2.8 billion from taxpayers to the oilmen, according to different estimates. Now, after a fierce Congressional debate, which somehow fixed the bounds of discussion around whether to leave the

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depletion alone, reduce it from 27.5 per cent to 20 per cent, or compromise, the 22 per cent depletion affords the oilmen only $1.6-$2.5 billion.

As another incentive to discover more of that low-cost domestic oil, the government throws the "intangibles" allowance on to the heap of subsidies. This provision of the Internal Revenue Code allows oil producers to capitalize all the intangible costs of oil exploration and development: lease rentals, wages, fuel, power, materials, supplies and repairs. The oilmen get special treatment in that they can write off these items in one year (whether the exploration is successful or not), whereas other businesses must depreciate them over a period of years.

Finally, the government allows the major oil companies to write off their "tax" payments to foreign governments dollar-for-dollar against their U.S. income tax liability (*not* their taxable income). These payments, which are often in the range of 85 cents per barrel, would be treated as rents or royalties—normal costs of doing business—if they took place within the United States. Oil companies generally do not bargain hard over these royalties, since they pass the entire cost on to the American taxpayer.

There is a superordinate layer of absurdity to the foreign tax credit arrangement. National security, when defined for purposes of the import quota, requires that we forego the much lower prices on foreign oil. But the foreign tax credit law is defended with the argument that the Russians or some other unscrupulous foreign power will get the oil if we don't. In other words, national security demands that the American taxpayer underwrite the acquisition of foreign oil that national security prohibits him from using.

In addition to insulating the oil industry from competition and subsidizing its activities, the federal government allows the oil industry to virtually escape paying taxes. In 1965, the Internal Revenue Service found that only 44 to 51 per cent of the oil industry's actual income—depending on how one treats the foreign credit—was considered taxable, whereas 97 per cent of the actual income of all other manufacturing concerns was considered taxable. In 1968, the petroleum refining industry paid only 11 per cent of its pretax earnings in federal income taxes, whereas other industries averaged 40.8 per cent. There are some particularly egregious tax blessings among corporations with foreign oil holdings. Atlantic Richfield Company, for example, reported net income of $377,942,000 from 1965 through 1967 but paid no federal corporate income tax. Texaco reported a net income of $892,986,000 in 1967 and paid only 1.2 per cent in corporate income tax.

The economic return to the citizenry for this package of goodies for the oil industry hovers around zero, and there are costs not included in the list above, such as oil slicks. Oil slicks come from offshore drilling, most of which would not be economical without the import quota system and domestic prorationing. The average offshore oil well costs nearly $250,000, while the average onshore well costs about $60,000. Drilling in the ocean stems from one of the true economic costs of oil quotas: artificially high prices allow otherwise inefficient operations to stay in business. Residents of Santa Barbara and the Gulf Coast can chalk up their recent disasters to the import quota system.

The economics of the quota system, indeed of the entire oil industry as it relates to the government, are so patently contorted that the oilmen must owe their favors to some cruder, less refined science. Such a massive boondoggle must rest on political foundations, where raw clout and the mystical shroud of national security can dignify the sourest of frauds.

The national security argument has always been the backbone of the rationale for import quotas. In dissenting from the 1970 report of the Cabinet Task Force on Oil Import Control, Secretary of the Interior Hickel and Secretary of Commerce Stans objected that reducing

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quota protection "would risk the national security in fundamental respects. It would make us dependent on insecure foreign supplies by discouraging the exploration and development necessary to build our own reserves of oil and gas." These two Cabinet members, who generally represented the oil industry on the task force, also managed to conclude that reducing governmental controls to let the price of domestic oil fall toward world market levels was "not only impractical, but would be a further retreat from a free market."

The task force had a difficult time conceiving of a situation in which foreign oil supplies could be cut off long enough to threaten the United States. A nuclear exchange would be short-lived, and refineries at home would be much more vulnerable to "interruption" than foreign supplies of crude petroleum. In order to make even a strained security argument, the task force had to postulate a prolonged, World War II-type conventional war, or an international political conspiracy against the United States. The prolonged conventional war was considered (a) unlikely, (b) unlikely to persist without nuclear exchange, (c) unlikely to persist without rationing, and (d) unlikely to persist without a major increase in domestic oil production.

The political conspiracy hypothesis has at least three weaknesses. First, the boycott would require the sustained cooperation of at least six diverse governments (Saudi Arabia, Libya, Kuwait, Iran, Iraq, and Algeria) to even approach effectiveness. Major producers such as Venezuela, Canada, Nigeria, Indonesia, and Mexico, would still be exporting. Second, the conspirators could not boycott only the U.S. (we could get oil from our allies), but would have to boycott most of the major world markets. On these two grounds, the Cabinet task force concluded that "a difficult world supply problem would arise only if all or most of Middle Eastern and North African supplies were to be cut off to all major markets." The third weakness, of course, is that most oil exporters could not shut off their buyers for very long without destroying their own economies. Many Middle Eastern countries derive more than 50 per cent of their GNP from oil exports.

Short-term crises could scarcely produce a security crunch. The petroleum industry normally maintains production stocks of 1.5 billion barrels, or about three times the *annual* oil requirements of the military at the peak of World War II. Anyhow, there may be plenty of domestic oil. One possible source is the petroleum which can be extracted from shale. Witnesses before Senator Philip Hart's subcommittee on Antitrust and Monopoly estimated that the richest shale deposits in Colorado alone contain about 600 billion barrels of oil—more than 100 years' supply at current consumption rates.

Even if there were a massive, prolonged curtailment of foreign oil combined with no major new domestic oil pools, removing import quotas would not lower domestic production below emergency needs. The Charles River Report for the Office of Science and Technology estimated that free trade in oil would lower the price of crude petroleum to about $1.75 per barrel and increase domestic consumption to 5.9 billion barrels. Of the 5.9 billion barrel figure, 3.4 billion barrels would be produced in the United States and 2.5 billion would be imported. Of the imports, 1.3 billion barrels would come from the Middle East and North Africa, 1.0 billion from Venezuela, and 0.2 billion from Canada. The report estimated that one year's total embargo of Middle Eastern and North African oil could be offset by increased production in the United States, Canada, and Venezuela from existing reserves. The Cabinet task force concurred in this general assessment of the national security argument for import controls. Its report found that if the Middle East were to shut off oil for one year in 1980, we could still supply 104 per cent of our domestic oil needs without rationing.

In short, with appropriate estimations

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of the counterveiling factors, with cross-cutting discounts for unforeseen negative developments, and with conservative estimates of operations requirements and foreign power macro-intentions, the national security argument may be classified as idiocy.

The Threat of Reform

The structure of the quota program was clearly not sturdy enough to survive unquestioned forever. As the public slowly awakened to some of the most glaring incongruities, pressure for change began to build up. The catalyst was Machiasport.

Machiasport is a little town in a depressed county of Maine. Its only economic asset is that its harbor, among the best on the East Coast, can accommodate the largest oil tankers yet envisioned. It was this harbor which, early in 1968, caught the eye of Occidental Petroleum Corporation as a potential solution to some problems of its own. Occidental, a newcomer to the ranks of the majors, had gigantic reserves of low sulfur oil in Libya, but, because it had no refineries, it lacked access to the rich American market. Machiasport offered a way in; and Occidental was so anxious that it was willing to share some of the bounty with New England consumers. In the summer of that year the state of Maine, on behalf of the company, applied to the Department of Commerce for the establishment of a foreign trade zone at Machiasport into which oil could be freely imported, refined, and then "exported" into the U.S. If it were granted the right to ship 100,000 barrels a day of home heating oil, residual oil, and gasoline into the New England market, Occidental pledged, it would give a 10 per cent price reduction and about $7 million a year to a conservation fund.

Obviously, this scheme had great appeal to New Englanders. It would promote economic development, alleviate the shortage of home heating oil, and lower oil prices throughout the region. Just as obviously, the other major oil companies were made nervous about the possible disruption of their marketing patterns. During the long wait for a decision on the Occidental proposal, which has still not been made at this writing, the industry girded itself for a fight. It was not long in coming. For after many years of ignoring the subject, unwelcome attention and opposition were developing in Congress.

Galvanized by Machiasport, New England Congressional representatives vigorously attacked the quotas. Senator William Proxmire also took up the cudgel against subsidizing an entire industry to the point of inflation. Senator Hart provided the forum in the Antitrust and Monopoly subcommittee hearings for attacks on the quota system by a number of academic economists.

Two groups led the fight to retain tight oil import controls: the independent producers and the major integrated companies. They were represented by the Independent Petroleum Association of America and by the more powerful American Petroleum Institute, headed by a former member of the House Ways and Means Committee, Frank N. Ikard.

The oil lobby hit upon a familiar method of burying a problem one doesn't want dealt with—have it studied into obscurity. Frank Ikard and Mike Haider, Chairman of both the API and Standard Oil of New Jersey, met with Arthur M. Burns, Counsellor to the President, to request such a study. On March 25, 1969, the President announced the appointment of the Cabinet-level task force to investigate oil import controls. It was composed of Secretaries of Labor, Commerce, State, Treasury, Defense and Interior, and the head of the Office of Emergency Preparedness. Secretary of Labor George P. Shultz (now director of the Office of Budget and Management), a noted economist, was to serve as chairman. The staff of the task force gave the industry something of a shock. It was headed by Harvard law professor Phillip E. Areeda, who proceeded to appoint a collection of lawyers and economists generally ac-

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knowledged as both brilliant and independent of the industry.

The oil industry began to have serious misgivings about having pushed for the study in the first place. Industry concern over the fate of the quota system grew so intense, in fact, that at one point the companies appeared willing to accept a cut in the oil depletion allowance in return for saving the quotas. Although not the most extravagantly sacrificial gesture on their part, this offer nevertheless won them the sympathy of Representative Wilbur Mills, whose Ways and Means Committee was then mulling over legislation that included the depletion cuts. Mills sent a telegram to the task force, urging them to be lenient. As the members of the task force met in theoretically secret session to consider the staff recommendations, they were reminded who supported the Republican Party with money and votes. Attorney General Mitchell is said to have told Chairman Shultz, "Don't box the President in." The oil state Senators and Congressmen inundated the White House with expressions of support for the oil industry. The squeeze was on.

At the moment of truth the task force recommended that the quotas be replaced by tariffs which would keep domestic prices at about the same level they were before the last price increase. However, the task force report was something of a Trojan Horse for reform. Tariffs, although not giving the consumers any direct benefit, do have some advantages over quotas. The tariff system would offer an environment in which any company that wanted to compete could do so and might even be tempted to cut prices—the situation most feared by the oil industry. It would also allow the federal government to set oil prices directly rather than letting the oil states set them—and thus would give consumers at least the chance to be heard. And, finally, tariffs would put into the federal Treasury the $1.5 billion a year that now goes to the oil companies via the import tickets. All this was more than enough to set the industry against the task force proposal.

Choosing a specific level for the tariff was where political reality weighed heavily on the members of the task force. The majority rejected the professional staff's recommendation of a tariff that would let the price of oil sink from $3.90 a barrel to $2.50 a barrel, which would have been a considerable gain for the consumer. Chairman Shultz went along with the professional staff.(The struggle over the import quotas did not deter the industry from seeking ever greater gains. In March of this year, it raised the price of gasoline by one cent a gallon, an added cost to the consumer of $800 million a year. This was in keeping with the philosophy set forth by oil consultant Richard J. Gonzalez of Houston that "the import program must not be perverted to impose unauthorized price and profit controls that would be discriminatory against the petroleum industry . . . and contrary to the national interest.")

President Nixon seized on the fact that the report was not unanimous as a reason for "restudying" the issue. He also set the date for ultimate decision after the November elections and named his campaign manager, John Mitchell, as chairman in place of Shultz, who had voted for low tariffs. These circumstances gave the impression that the President's message to the oil industry was "fill 'er up." The President seemed to be saying that, unless the industry heaps high its campaign contributions, he might consider the proposal to abandon quotas.

The sheltered oil industry is clearly unwilling to give up its government subsidy for, as is well known, living on welfare saps the ability to compete. Instead, the oilmen prefer to return a small portion of their favors to the party in power—giving consumers the rare honor of paying protection money for their own exploitation. All that remains to be determined, when the campaign contributions are added up, is this: what is a proper payment for subsidies worth five billion dollars a year? ■

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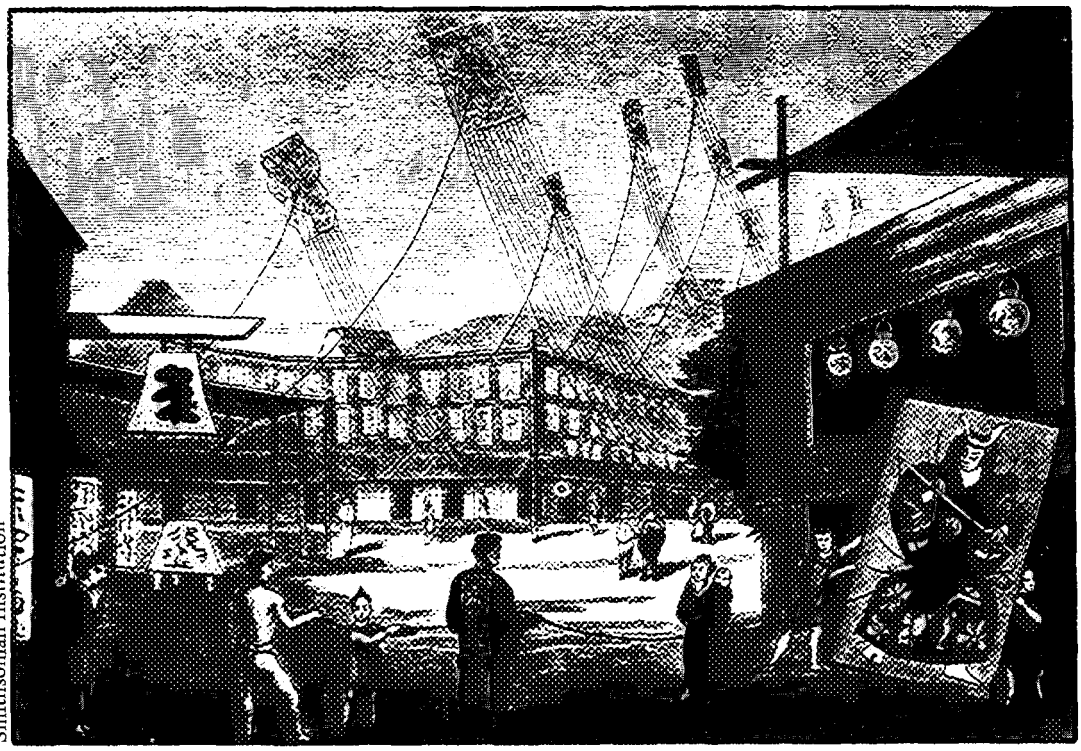
Freedom on a String



Smithsonian Institution

by Paul Dickson

Because kiteflying has long been a humble but clear symbol of individual freedom, suppressing it for whatever reason is a signal of repression. Once this is understood, then one has the essence of the politics of the kite.

Paul Dickson, a Washington writer, is author of a book on think tanks, to be published next year by Atheneum.

Oversimplified? Not really:

- In Japan, where kiting is both an art and a national pastime, kites have been banned twice: once during the pre-World War II build-up so that people would keep their minds on their work and then again at the end of the war by the American occupation forces because kites were judged to symbolize Japanese nationalism.

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■ In pre-revolutionary France—1736, to be exact—kites were banned because the monarchy feared the riots that had broken out in the great kite competitions common in France in the early 18th century. Although the Revolution swept the ban away, the kite-detesting Napoleon had his aides cut down any kite he spotted.

■ A recent broadcast from China reported in *Kite Tales*, the quarterly of the American Kitefliers Association, told of the rationale for a recent Chinese anti-kite measure: "... we must guard against the handful of reactionaries creating counter-revolutionary power failures, thus making full opportunity of kiteflying."

Just as history shows repressive kite bans, there is long-established precedent for the kite as a vehicle for freedom, religious expression, communion, vicarious flight, and romance.

In ancient Asia it played an important role in magic, ceremony, religion, and personal expression. Pacific folklore is studded with kites which are variously worshipped as gods, used to communicate with gods, or seen as symbols of man's spiritual transcendence from the ground to the heavens. In ancient Polynesia, for example, a sky-cult used kites to communicate with their sky gods—Rongo, Rehua, and Tane. The most common early experience of man with kite, however, was that of a free-moving external soul, and this is the interpretation which has come tumbling down through the ages. In the writings of a ninth century monk, for instance, we find, "My kite rises to celestial regions, my soul enters the abode of bliss."

As a means of vicarious flight, kites are proven vehicles credited with, among other things, giving the Wright brothers their first feel for the skies and, through kite experiments conducted by Alexander Graham Bell, bringing about the invention of the hinged partial wing, or aileron, used by aircraft today. They have played diverse roles in romance ranging from the Thai legend in which an oriental Romeo, kept from his Juliet by feuding families, makes off with her on the string of a kite he flies into her garret, to the truly tragic Somerset Maugham character who prefers to rot in jail rather than pay alimony to a woman he divorced because she had smashed his favorite kites. Still in the romantic vein, students of the film will recall that gargantuan kites were used to catch lightning for the spark that put life into *The Bride of Frankenstein.*

Progress Reels in the Kite

In the face of this rich tradition of freedom, flight and fancy, the last 100 years has seen an upsurge in anti-kite legislation, prompted often by the forces of "progress" (protecting the high-tension line, the low-flying aircraft, and, before that, the urban horse-drawn carriage and the overhead trolley line). In England they have been banned above 200 feet—particularly restricting when one realizes that kites have been lofted as high as 15 miles. Until recently there were two anti-kite laws on the books in New York City and the Federal Aviation Administration had a nasty package of regulations including one forbidding kites to fly within 500 feet of a cloud, which gives us the distinct impression that clouds are federal property. However, there is good news because anti-kite provisions are, generally, falling like so much dead timber.

The first significant event took place in New York City in 1965. Will Yolen, president of the International Kitefliers Association (not to be confused with the rival American Kitefliers Association) and World Champion Kiteflier, a title he took from the Maharajah of Bharatpur in 1961 and has successfully defended against all comers, succeeded in having two anti-kite laws stricken from the books in a coup that blended political maneuver and civil disobedience. When John Lindsay announced his first candidacy for mayor, Yolen said he would help. His way of helping was to take to Central Park with a huge French

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military kite trailing an eight-foot long banner saying "Vote for John Lindsay!" A mounted policeman told Yolen he was under arrest on two counts. He was charged with illegally flying a kite in the park, under a 19th century law enacted to protect horses from kite-fright, and with violating a law of unknown purpose which prohibited kites with commercial or political messages from flying over the city. Yolen went to court three times and with the help of the American Civil Liberties Union and Lindsay, who wrote a brief in Yolen's behalf, the laws bit the dust. The one to keep horses calm was ruled antiquated and useless, and the one prohibiting kites with a message was judged a violation of free speech. Once in office, Lindsay proclaimed a kite-flying day in the park.

Continuing the trend, the FAA in 1968 softened its harsh package of kite regulations. Relaxation came without outside pressure. As *Kite Tales* reported in its Winter, 1968, edition, the laws were modified—presumably, because they were unenforceable—to a more reasonable permission to fly anywhere, at any time, at any height unless the kite weighed over five pounds, a weight judged dangerous to aircraft.* Rulings by federal authority other than the FAA still prohibit kites over military installations, over federal buildings, and near radio and television transmitters.

Washington Finds the Abode of Bliss

The most dramatic episode in getting rid of anti-kite laws has been acted out, appropriately, in the nation's capital. Lasting almost a year, it began with a small incident and ended in phantasmagoric melange of national media coverage, Congressional oratory, high-level lobbying, arrests, legislative high-jinks, memoing, and, finally, victory and a victory celebration.

The original anti-kite law was enacted by the 52nd Congress in 1892 as part of a broad package of civic prohibitions against such things as cursing, throwing missiles, rude talk, indecent exposure, boisterous assemblies, setting dogs on people, disturbing church services, "playing football, bandy, shandy or other games with balls or stones in the streets," and "fast riding or driving in excess of eight miles per hour in the cities of Washington or Georgetown and 12 miles per hour outside thereof, or turning corners in excess of four miles per hour . . . ." The anti-kite provision read:

> That it shall not be lawful for any person to set up or fly any kite, or set up or fly any fire balloon or parachute in or upon or over any street, avenue or alley, open space, public enclosure, or square within the limits of the cities of Washington and Georgetown, under a penalty of not more than ten dollars for each and every offense.

Paul E. Garber, Assistant Director for Aeronautics at the Smithsonian Institution, kite inventor, and generally regarded as one of the nation's foremost kite experts, explains that when the law was originally passed there was certain justification for it. First, kites presented a real hazard in terms of electric shock and fire that could be generated by the primitive utility lines of the time. Secondly, he points out, fire balloons and kites with Japanese lanterns attached to them, popular at the time, presented a fire hazard. Garber tells how a fire balloon he launched as a boy in 1904 or 1905—it was essentially a paper balloon that rose from the heat of a kerosene-dipped wick—landed in a haystack and set it afire.

However, since 1892 the law had only been applied occasionally—in fact, Alexander Graham Bell used to experiment with kites in front of his home on Connecticut Avenue in the District of Columbia without once forfeiting ten dollars. The law had fallen

* *Kite Tales*, it should be noted, shies away from civil disobedience in kite matters. It takes a strong stance for co-existence. An editorial just before the FAA package was modified said: "Remember one thing: You have just as much right to fly your kite in the sky as a pilot has to fly his airplane. Just observe the rules the same as he does."

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into such disuse that by 1967 the Smithsonian felt free, after checking with the local authorities, to sponsor its first spring Kite Festival on the Washington Monument grounds. The event was repeated without incident in 1968 and 1969. Also in 1967, the underground (now-defunct) *Washington Free Press* called for a massive kite-in to protest the ancient law on a broad expanse of grass known to sunbathers and street people alike as the "P Street Beach." Law and Order fizzled—nobody enforced the ban.

In late May, 1969, the law was tested directly. A District of Columbia kiteflyer named Joseph Boyd, who was 18 at the time, applied to the U.S. Park Police for a permit to fly his kite on the P Street Beach and was turned down. He flew it anyway to a crowd of cheering onlookers and was booked on May 31 for violation of Section 1117, Title 22 of the District Code, the kite law. Boyd's challenge, though hardly noticed at the time, had forced the officials to face the fact that they were responsible for enforcing the ban. Every year since the early Sixties the District had asked the House District Committee to repeal the ban and every year the committee had chosen not to act. As the drama unfolded, it became obvious that Boyd's action was the catalyst in overturning the ban.

Garber, who initiated the festivals, explains what happened next: "It was decided by the National Park Service and the Smithsonian that because the boy who had been arrested used as his defense, 'If the Smithsonian can do it, why can't I?' the law could no longer be disregarded and the Smithsonian could not be its most flagrant violator. For that reason it was decided to move the festival."

The 1970 festival was held at Fort Washington on the Maryland side of the Potomac far from the District of Columbia. It was a gay spring day with good stiff breezes, but the odd location made for poor attendance. Meanwhile, back at the festival's rightful home, the replacement performance was fundamentalist preacher Dr. Carl McIntyre and his radio congregation participating in their March for Victory in Vietnam. McIntyre promised, regarding the war, "We're going to turn it around for God!"

In a somewhat different spirit, the pro-kite forces were about to take to the parks to turn it around for the District's kitefliers. On April 11 the U.S. Park Police arrested four of about 30 kitefliers who were kiting-in on the Mall (included in the arrestees was the persistent Boyd who had lofted a box-kite in full view of the officers). The next Saturday the Park Police, anticipating trouble, came to the Mall armed with memos which they handed to a larger crowd of fliers. The memo was from the General Superintendent of the National Capital Parks, and it warned of arrest but politely concluded, "We cordially invite you to go fly a kite on national parklands outside the city of Washington." The memo did little, if any, good. The dissidents flew and justice was served as another 11 arrests were made. In all, two Saturday dragnets had yielded 15 violators.

After the arrests, pressure began to mount. Both the Smithsonian and the District of Columbia government lobbied to get Congress to address itself to repealing the ban, and Secretary of the Interior Walter J. Hickel dropped the first of two famous spring, 1970, memos over the fence. Hickel in his appeal to the heads of both the House and Senate District Committees urged ". . . immediate and favorable consideration of legislation removing existing restrictions on kite flying in the District of Columbia." The city of Philadelphia, meanwhile, extended an embarrassing offer to all District kitefliers to come to that city, where no repressive rules were in force.

Each body of Congress had its own response to the pressure. The Senate spliced its repeal provision onto the controversial District of Columbia Crime Bill, suggesting the possibility of a trade:

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freedom to fly a kite for a package that would deprive the capital's residents of other freedoms. On the House side, there were no such complications. A bill (H.R. 16476) was drafted, reported out of committee, and passed by unanimous consent on May 11, 1970. However, it was not passed without a price: the subject unleashed the disastrous wit of the House. One Representative said, "If one citizen were to tell another to go out and fly a kite, he would be advocating the commission of a crime in the District of Columbia. I doubt that this ever happens in the District of Columbia, but just in case any citizen ever got high as a kite he would be in double jeopardy." Representative William Hungate of Missouri acidly suggested that the affair was, "eloquent testimony to the wisdom of our retaining home rule right here in this Chamber so we can pass on kiteflying."

Celebration of the House repeal came formally on May 24 when an officially sanctioned fly-in took place on the Washington Monument grounds, the very turf where the "Mall 15" had been busted. The National Park Service, atoning for vigorous enforcement, gave away 2,500 standard-shaped, two-sticker kites. Hundreds of kites filled the sky, not only the commercial Cloudbusters, Redmen, and Hi-Fliers, but homemade ones: well-crafted oriental kites, another in the shape of a pumpkin, one with a tail made of small American flags, another tail with letters spelling out PEACE, and, ponderously rising through all of these lesser entities, a mammoth 14-foot box kite. There were rock bands, a supercharged disc-jockey M.C., lots of kids, laughter, bathing suits, (skin) prizes, (hair) kite corpses littering the Mall, and a kite-puncturing hail storm rounded out the day. Neither a little Woodstock nor a sporting event like the Smithsonian kite festival, it stood on its own: an effortless afternoon of liberation.

(Also in May, the Smithsonian scheduled four Saturday boomerang fetes on the Mall. "Throwing Missiles" is still quite illegal under the remaining portions of the 1892 law but nobody chose to enforce the ban. It is a good bet that one could get away with the still illegal games of bandy and shandy, if anyone knew how to play them.)

Little Comforts

What lesson can be drawn from the kite story? Although it was an absurd old law, old laws are not in themselves bad, as evidenced by Secretary Hickel's recent action in dusting off an all-but-forgotten 1834 statute on Indians and using one of its provisions to allow Indians to start running their own reservations. It would be silly to say the repeal is evidence of a trend to freedom and just as wrong to try to link it with anything remotely akin to genuine change or responsive government. Actually the kite repeal coming when it did, while the Senate was searching to find an answer to the question of who makes war around here, leads to the thought that the House found a non-controversial haven in declaring, "Let them fly kites." Is this then a parable in search of a moral? Definitely. It is not, however, without some satisfaction.

If, as we are told, a journey of a thousand miles starts with one small step and it is better to light one candle than to curse the darkness; then, when a candle is lit and a step taken, it is time for a bit of rejoicing even though it gives the overseers on the House District Committee still another opportunity to tell the residents of its captive community to "go fly a kite." Moreover, for each of us there is at least this. If we are to go out with a whimper instead of a bang and if, as the cliché has it, we are to be pecked to death by ducks—absurd laws, rules, insensitive computers, indifferent bureaucracies, attacks on our privacy, the banal, the venal, and the like—then is it not better to enjoy our small successes before the cosmic whimper and to outwit a few of those pecking ducks before we go down? Kite-on. ■

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Morton Broffman

The Politics of Peace

by Sam Brown

When I visited the North Vietnamese and NLF representatives in Paris last February, they made it clear that they had never counted on the American left to end the war. Madame Nguyen Thi Binh, the foreign minister of the Provisional Revolutionary Government (of the NLF), remarked that she found student radicals very sectarian and reluctant to touch political power. She continued that the confused assortment of political objectives on the left—from legalizing marijuana to overthrowing the government to providing free abortions—dilutes the political impact of the peace movement. The result, she suggested, is that the Vietnamese people and American soldiers carry the burden of America's social problems. Insofar as unrelated issues are tied to the peace movement, weakening it, Vietnamese people and American soldiers die every day because the peace movement has exported the costs of America's social problems to Asia.

Sam Brown left Harvard Divinity School to organize Students-for-McCarthy and was coordinator of the Vietnam Moratorium. He has just returned from a trip to Vietnam and is working on a book.

I found these Vietnamese revolutionaries far more thoughtful than most young American revolutionaries. Their private conversation was radically different from their strident, ideological press releases, and they seemed to bear little malice toward the American people. They didn't express hatred for Middle America, or even for the soldiers in Vietnam. The negotiators seemed to be tough-minded realists, who expect a long war and don't believe that America is anywhere near collapse. In short, these communist leaders are very connected to reality, where political self-delusion can cost people their lives.

One such delusion within the American peace movement has been the notion that we can retain a private dimension of political morality for ourselves. *We* define the significance of peace rallies in such a way that we cannot lose our purity. So if Jerry Rubin or the Black Panthers offend people from a

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peace platform, we conclude that Jerry Rubin's style is his own business and the Black Panther platform is logically separable from the war—therefore the offended people should pay attention to the anti-war political message independently of its context. We cannot be responsible for their confusion or stupidity.

Thus doves reason that they have the best of situations: if the war ends, they can take credit for political effectiveness; if it continues, they have personally separated themselves from the war policy. The problem, as Madame Binh pointed out, is that there is no private realm for people dealing with the politics of war. The significance of our acts in the peace movement is politically determined, not privately defined. Every time a 16-year-old high school student steps off the curb for a demonstration, there is a political effect. The war may be nearer or further from its end, according to the political impact of his action. This places an awesome responsibility on those who lead others into action.

The responsibility will be increasingly important as it becomes clearer that President Nixon is committed to some kind of non-defeat in Indochina which he calls "winning the peace." There is no evidence in his history that he could withdraw all troops from Vietnam and stop all bombing if doing so would be described as a defeat. This means that building peace politics is not superfluous. American, Cambodian, and Vietnamese bodies are still being blown apart every day, and only a peace movement which reaches Richard Nixon's constituency can stop it. Doves must find lessons in the past five years of anti-war activity to avoid both the errors of previous strategies and the fiction that the war will dissolve of its own accord. Neither Vietnamization nor a naive peace movement can end the war.

Since November, 1969, the President and Vice President have used the apolitical purism of many committed peace people to split the non-moral opposition

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"The President is committed to a non-defeat in Indochina which he calls winning the peace."

to the war away from the anti-war activists. They realize that most American voters make political decisions largely on issues of tone and style rather than on the basis of rigorous foreign policy analysis. The right wing of potential peace supporters—those opposed to the war for a variety of non-moral reasons, ranging from its economic cost to the futility of seeking a conventional military victory—tend to cave in to Presidential authority, especially when the tone of his message is more congenial and positive than that of the doves who hold that we cannot grind an honorable peace out of a dishonorable war. The potential peace voters respond favorably to the calm, authoritative demeanor of the President behind the mahagony desk during a television broadcast, and they like neat, clean, thoroughly American behavior. They don't like long hair, campus protest, or, in short, anything which irritates the nerve endings of middle-class values. They may dislike the war, but they dislike radicals far more. Moreover, they inherit this country's anti-intellectual legacy, so that if the President calls for "team spirit" and the peace movement calls for "communal solidarity," they go with the President. For them, "communal solidarity" smacks of the red specter and academic snobbery.

The Middle Americans who favor an early end to the war hold the political balance between continued Nixonian Vietnamization or worse, and an early end to the war. A substantial majority of them would vote for "withdrawal from Asia as rapidly as possible commensurate with the safety of the troops" if the arguments pro and con were presented in equivalent styles. But the President can commune and communicate with the non-ideologues who want to end the war, and his message is not one of rapid withdrawal but of "winning the peace" and avoiding humiliation. And except for the 1968 campaigns and a brief moment last October 15, the peace movement has *not* been able to talk with, or feel with, its potential allies. The apparent result is that the President has disarmed his domestic critics while the peace constituency has grown larger than ever. I think he will lose on his peace-with-victory tightrope in the long-run; but for now, even after Cambodia; the combination of support for this President and a peace majority is another paradox in the string of Catch-22 insanities which have characterized the war—prepared by a liberal President who spoke of ending the Cold War, begun by a President elected on a peace platform, waged by executive order to export democratic self-determination to half of another country, escalated in the interest of protecting the troops, and continued on the grounds that it is the shortest road to peace.

Those of us in the peace movement who have worked for five years on campuses, in campaigns, and in community activities like the Moratorium bear a large share of the responsibility for our alienation from the potential doves in Middle America. The fact that they support the President in a crunch follows partly from historical accident, partly from errors in political judgment by the morally committed, and partly from a lack of courage among the politically astute.

Insofar as the split within the peace movement stems from the student base of most anti-war activity, historical accident is largely to blame. I do not

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"Bodies are still being blown apart, and only a movement which reaches Nixon's constituency can stop it."

think students would have taken themselves seriously as a political force had the war not begun during the civil rights movement. In the early Sixties, young people learned that voting and precinct meetings were not the only effective forms of political activity, that extra-legal demonstrations worked in the face of a moral horror, and that American leaders often displayed both cowardice and hypocrisy in race relations. The civil rights movement, with all its implications about American politics, was almost a necessary condition for anti-war activism on the campuses.

It was also important that the war was begun by a Democratic President, for Lyndon Johnson's presence in the White House silenced many of those who are now doves against a Republican President. Hubert Humphrey, Arthur Goldberg, Edmund Muskie, Larry O'Brien, Adlai Stevenson III, Birch Bayh—none of the party establishment came close to breaking with Johnson. Even the intellectual community, which might have been expected to provide some leadership was so closely tied to the Administration that its members—McGeorge Bundy, Francis Bator, Richard Neustadt, Zbignew Brezezinski, and so on—were reluctant to speak out at first. So were the foreign policy experts, such as Roswell Gilpatric, George Ball, Averell Harriman, and Cyrus Vance. The result was that students were the original peace constituency almost by a process of elimination. Through the draft, we felt the war with the kind of harsh self-interest which motivates most political activity. The first major anti-war demonstration took place in front of the White House in the spring of 1965, organized by SDS. Senators Morse and Gruening spoke, sealing the alliance between students and brilliant eccentrics. When Eugene McCarthy announced his candidacy in November of 1967, everyone assumed that students would be his most consistent supporters, although all the pros, including Robert Kennedy, advised McCarthy against stressing student support.

To say that students have formed the core of anti-war activism does not mean that young people are overwhelmingly dovish relative to other age groups. That is part of the silent majority myth. But I do think that young peace activists tend to have made certain moral judgments about the war, beyond pragmatism. This is a source of strength for the peace movement in that it provides the strongest motive for opposition to the war and also removes the recurrent trap of wavering doves: the victory wish. People who believe that the war is immoral are not tempted to dampen their activity when a vision of conquest is dangled before their eyes. In fact, most of us who have worked to end the war for some time believe that any semblance of a military victory in Vietnam would be disastrous for the United States. It would convince many Americans that the war was right and that it could be successfully repeated elsewhere. Also, a military triumph would go a long way toward replacing the Jeffersonian-revolutionary image of America as a place of hope with a Roman image of this country as a conquering empire.

If the conviction of young people has been a source of strength, it has also been responsible for much of the self-containment of the peace movement. And the significant fact is not that active dissent began on the campus, but that it has largely stayed there.

When anti-war activities began on the campuses, most of us were convinced that political education could end the

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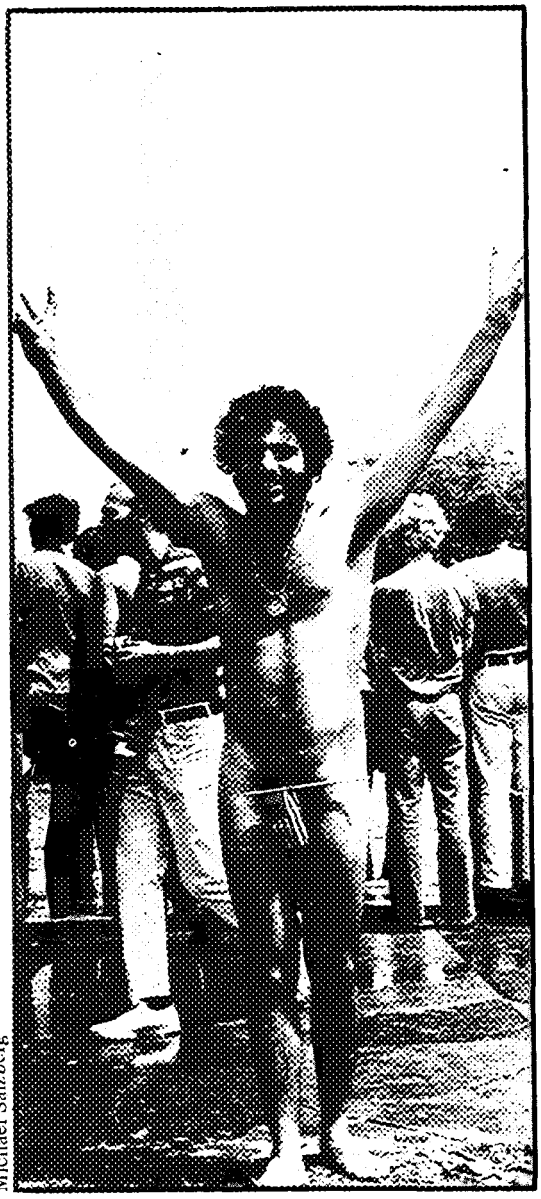

Michael Salzberg

"Most voters make decisions largely on the basis of tone and style. . . ."

war and that America was sufficiently biased against foreign conflicts to make it impossible for the government to wage war with substantial internal opposition. The draft forced us to confront the war early; and since we reached our decision to oppose American Vietnam policy largely through an intellectual process, we were confident that the country could do the same. So there were teach-ins on Vietnam in 1965 and 1966, and the Vietnam Summer of 1967 was originally called Teach-Out, a campus effort to reach into the community.

The weaknesses of the citizen education campaign became apparent very soon. For one thing, students presupposed a level of basic knowledge about Vietnam that simply didn't exist in most voters. If, in 1965, a student went to a doorstep and the lady said, "I don't know, the President knows more than we do," he became quickly frustrated with such blind deference in the face of facts about the war.

Students found that most voters employed a contorted decision-making process to analyze American involvement in Vietnam. It seemed that they should have been against the war until they knew enough about the issues to argue for it. Instead, people supported the war until convinced that America was wrong, placing the burden of proof on the students and then being fairly complacent about studying the evidence. Many students found it morally repugnant that a citizen could support Lyndon Johnson's war without having read Bernard Fall, the Vietnam hearings, or even Douglas Pike and the SEATO Treaty, without knowing the history of the Viet-Minh or of French colonialism in Indochina, and knowing little about Ho Chi Minh, Marshal Jean De Lattre, or Ngo Dinh Diem.

It became quite easy for students to react against Lyndon Johnson's use of Middle America's historic anti-intellectualism with a kind of academic chauvinism readily learned from prominent professors. Thus it followed that since every intelligent person was against the

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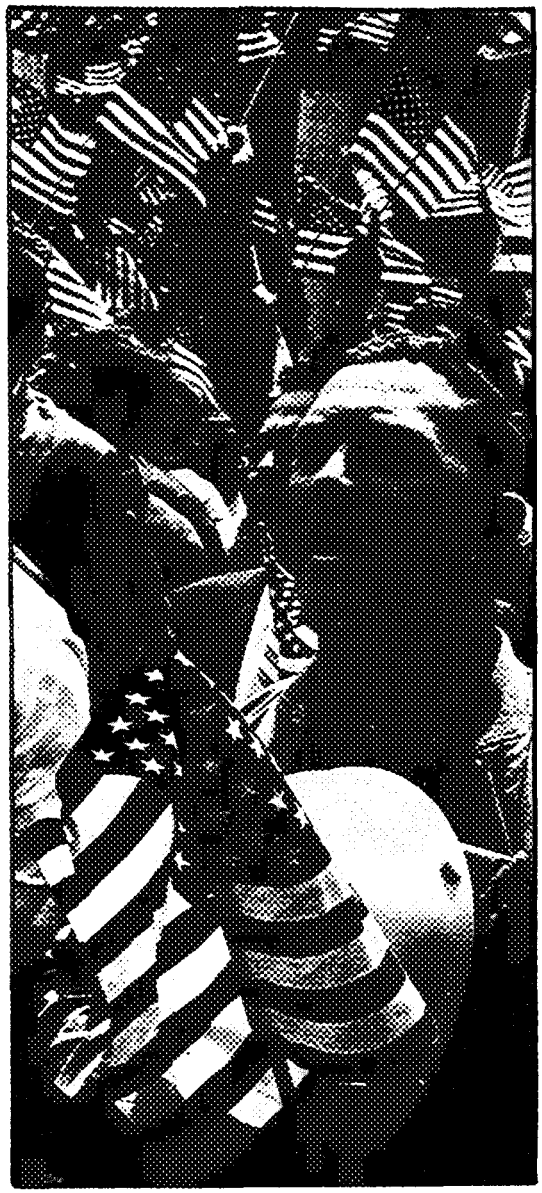
war, anyone who supported LBJ was a fool, immoral, or both. With President Nixon reduced to visceral patriotism and respectable demagoguery to carry the war, the argument has been pushed to its conclusion: that people who support the war for immoral or irrational reasons should not count. This judgment is often felt but seldom expressed, because it runs headlong into the left's emphasis on participatory democracy. Unfortunately, irrationalities matter in democratic politics, and peace is not here just because we want it, or even if we can demonstrate on paper that it's a good idea. In order to build a successful peace movement, one must believe that Middle America should count, even after a week's canvassing in Ogallala, Nebraska, or Peoria, Illinois. The alternative is to join with classical aristocrats, who find the paper ballot a rather crude and absurd method of making political decisions.

Students found it difficult to break the ethos and life style of the campus in order to spend their time in homes and businesses. Canvassing operations and education campaigns require a great deal of organization and commitment to work which is generally tedious. A demonstration, on the other hand, only requires going someplace for a few hours, at least for the non-organizers. The atmosphere at a demonstration is one of a communion of peers, often with recreation and a heady emotional sense of solidarity. Moreover, the civil rights movement had given demonstrations an overtone of moral outrage, and that was precisely the message that the peace movement wanted to communicate: that the Vietnam War is a moral outrage.

Unfortunately, anti-war demonstrations did not succeed in dramatizing the moral aspects of the war, largely because the war was taking place halfway around the world. The sit-ins in the South could demonstrate the moral imperatives of the civil rights movement. One could see the violent clash of behavior against principle, and the connection to the law was clear. Peace demonstrations at draft



Fred W. McDarrah

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"Burning the flag is a shortcut for the years of hard work which would make real enemies on substantive issues."

boards and troop shipping stations attempted to make the same point regarding Vietnam, but the appeal to conscience was too vague or too strained. McGeorge Bundy and Robert McNamara were tucked away in an impeccably proper bureaucracy. They never delivered any napalm in person, and certainly never wore the coarsely hostile face of a Bull Connor.

Civil rights demonstrations had another advantage: they could appeal to the political self-righteousness of 75 per cent of the country in order to defeat the South. This was a significant political lever which the anti-war movement has never had. In order to accept the idea that the Vietnam war is immoral, one must admit that his whole country is capable of perpetrating great wrongs and that he himself is partly culpable. This is difficult for any of us to do. It is far more difficult than deciding that the South's brutal racism is immoral in the face of the non-violent courage of Martin Luther King.

Vietnam demonstrations also developed a high existential content, especially as the war dragged on beneath Ruskian platitudes. At some point it became necessary for all of us to *do* something, regardless of the political effect, in order to separate ourselves from the government. This year's May 9 demonstration was a good example. There had to be some response to the Cambodian invasion and Kent State. Because something had to be done and peace people knew how to produce demonstrations, a quick demonstration was put together. The May 9 rally in Washington was cathartic for everyone already committed against the war—a communion of the wounded, complete with a mass swim-in in the Lincoln Memorial reflecting pool and speeches about every conceivable issue on the left. But the rally had little political effect on those not already on our side.

The failures of demonstrations as a peace tactic tended to restrict the morally-based anti-war movement to the campus. And, during gestation on the campus, it continually moved toward the left. The enemies became generalized into the System and the solution into revolution. Anyone who added a new plank to the canons of the left was considered purer than his predecessor, and the movement shifted in order to identify with its purest elements. People became unwilling to accept those opposed to the war for less comprehensive reasons. They had to be written off as opportunists and moral reprobates.

This is the first vicious cycle of the student peace movement: the longer it fails to end the war, the farther left it moves, splintering itself into multiple groups in the process, which in turn makes it more difficult to develop the new constituencies necessary to end the war.

I cannot argue strongly for a single-minded peace strategy without considering the emotional costs. Obviously, there are reasons for leftward sectarian impulses, growing out of the history of the Sixties—when this country identified many domestic problems and solved almost none. There is good reason for a healthy cynicism. A young person in this country has seen little but war, the draft, riots, racism, assassinations, pollution, and governmental ineptness since he came into political awareness. A person who is 21 has dim memories, if any, of the early Sixties, when there was a great deal of hope in America.

On a deeper level, there is a strong

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"Most Congressmen want to be helpful if they can get big press coverage, but not otherwise."

sense among young people of alienation from the values which built the American economy—impulse repression, acquisitive drive, and status mobility. These frustrations add up to a strong motive for believing that America's problems are insoluble, and that the war is but a symptom whose termination will be of little use.

Finally, there is a feeling that the war cannot be ended on terms other than the Carthaginian Peace acceptable to the Veterans of Foreign Wars. Obviously, any tough-minded political discipline toward ending the war is senseless if the chances of success are zero. The existential alternative is to keep one's purity, protect one's life style, and demonstrate a personal separation from the war policy.

This is a dilemma for those who believe that the war is wrong: defeat appears likely and recommends that people withdraw into a personal purity, while ending the war requires that people move toward Middle America and become politically effective.

To unravel this problem, I think a few false issues must be separated out. First, personal appearance, language, and life style have nothing to do with the substance or purity of one's political views. Behavior that is offensive to Middle America neither establishes nor identifies real political differences; it merely offends Middle America. Burning the flag or shouting obscenities at an anti-war rally is for many doves a short-cut for the years of hard work which would make real political enemies on substantive issues. If done for its political effect, such action creates needless liabilities and fosters the self-deception that one is politically righteous in proportion to how much he is despised.

Another kind of false purism follows from an inquisitional tendency on the left to exclude as many people as necessary to insure the holiness of the group. This is the opposite of the political instinct, which is to include as many people as possible in the interest of achieving an objective. You take your allies where you can, not necessarily making heroes of them, but keeping them in the camp.

It's very dangerous to generalize a personal code of moral absolutism into politics. Many of us cannot accept the draft for this war on personal, moral grounds. But I find it ethically untenable to suggest that everyone who doesn't agree with us is automatically immoral—unworthy of respect and human consideration.

Such absolutist judgment would represent a curiously non-situational ethic for a generation which accepted and popularized situational ethics in sexual relationships. Middle America is still sexually Victorian on the whole, but politically pragmatic, while students are politically absolutist and sexually situational. One could, as Richard Nixon has, drive a truck through the gap.

On either side of this gap the combatants act like members of the old religious sects, where different rules govern one's conduct toward people outside the group as opposed to those within it. Thus, it becomes possible for an honest, fair-minded judge to display a total disregard for due process in dealing with a long haired radical. On the other hand, it is possible for people on the left—whose internal ethic calls for a loving ethos, an understanding of human weaknesses, concern for the poor, and non-violence—to direct blind hatred toward Middle America, to call people pigs, to glorify militance, and to display considerable cultural condescension toward "hewers of wood and drawers of water," from

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tobacco farmers to cab drivers to hard hats. The reponse is obvious.

Sect-like behavior is the source of a second vicious cycle within the peace movement. People in the middle respond to the sign language involved and to the external codes of conduct, not the internal ones. Sectarian violence on the left is the most salient aspect of what the press calls a peace-youth cult.

Perhaps strategic violence in the anti-war movement is yet another legacy of the civil rights movement, during which young people have seen that pompous official statements on the futility of violence consistently ring false against the scramble of politicians to throw money and concern into any urban riot area. But most Americans don't feel guilty about the war, nor do they feel that young demonstrators are its victims. Again, the moral imperatives of the peace movement have been different and weaker than those of civil rights. In any case, I find political violence wrong in principle, and anti-war violence is also strategic nonsense, creating even more needless enemies than flag-burning.

Sectarian violence on the left is the complement of the hard-hat phenomenon on the right. They represent the culmination of the familiar process of polarization.

The real crux of the dilemma over protecting principles comes when it is necessary to make judgments about issue priorities—to choose among contending goals in the interest of effectiveness. This is particularly difficult for young people, who dislike the notion of effectiveness itself because it represents to them the very craving for success that alienates them from America. They have seen too many allies announce with supercilious dignity that they are going to be effective within the system and then drown all moral commitment in self-advancement.

Many older doves not so alienated from success or the work ethic are also wary of the effectiveness trap. Some can remember the Cold War Fifties, when liberals adopted Brooks Brothers suits to

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Michael Salzberg

"effectively" protect those falsely accused by Joe McCarthy. And liberals continued to adapt themselves to the times until they decried the missile gap in 1960 so they could be effective in making social reforms and finally began the Vietnam war to demonstrate that they were more flexibly effective anti-communists than the hawkish Republicans. In a sense, the trap is responsible for the whole Vietnam mess; for the last generation of liberals made an ideology of effectiveness and finally came to believe in their own tactical compromises.

In order to handle the effectiveness trap, people must have enough self-confidence to believe that the steps necessary to end the war will not erode their commitment to other issues. Adopting a style that does not offend Middle America is itself no compromise of principle. The danger comes when liberals transform Brooks Brothers suits into political disaster, and today's doves must be able to tell when an acceptable style becomes a substantive sell-out.

People must also believe that the war can be ended. Otherwise, they join many students in the non-effectiveness trap—if you decide that it is impossible to win on anything, it makes sense to go down to defeat shouting the pure gospel on as many moral issues as possible. If, on the other hand, doves decide that the peace movement can in fact end the war, then the purest anti-war position is the one which ends the war fastest without compromising the principle that the war is wrong. That position would undoubtedly be tough-minded in that priorities must be chosen and sacrifices made in the interest of ending the war. Jerry Rubin may have to be excluded from a platform to keep John Lindsay, because, coldly, Lindsay is far more politically valuable than Rubin in any successful anti-war strategy. The position would also be painful—it would even be necessary to cultivate dovish potential among racists. But the position would also recognize the daily blood-cost of the non-effectiveness trap.

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"Education campaigns require a great deal of commitment to work. . ."

I think everyone who has a moral commitment against the Vietnam war feels some of these drives toward left sectarianism. Certainly I do. On the night of the Cambodian invasion, part of me wanted to blow up buildings, and I decided that those who have waged this war really should be treated as war criminals. There must be a certain point in the midst of an insanely malevolent situation at which any sane person wants to become a maniac. Discipline and caution appear deceitful.

But despite past frustrations and failures, I think that political self-discipline is precisely what is necessary to end the war. My own feeling is that this war *is* in fact less intellectually intractable than the long-run problems of pollution or the distribution of wealth in America, and less emotionally deep-seated than alienation from the Protestant work ethic or the overwhelming problem of race. But it throws up an enormous psychological barrier to the perception of these problems, simultaneously draining the nation of lives, resources, hope, and conscience. Therefore, I think that ending the war is a necessary first step toward meeting more difficult problems, even though ending the war may mean short-run sacrifices of efforts to cope with them.

Also, you have to have faith that the American people will choose the more humane political path when confronted with clearly stated alternatives, and then you work to state the peace choice persistently in the most acceptable style. Until you lose that faith permanently, left sectarianism must be regarded as politically foolish, and only lack of courage causes people who believe so to remain silent.

These realities have been clear for some time. They were paramount in the plans for the Vietnam Moratorium, drawn up in the spring of 1969, when the politics of Vietnam were considerably less carnal than they are now. Nixon and Agnew had not wrapped their policy in the flag, nor had polarization proceeded to the point at which many hawks would cheer the killings at Kent State. But it was clear, at least to our ideological minds, that the President was not going to withdraw from Vietnam quickly and blame the consequences on the Democrats. This option, which so many commentators thought likely because of its "peacemaker" attractiveness and the fact that it would direct any McCarthyite backlash at the Democratic Party, was rejected in favor of a Presidential desire for an outcome with victory written on it somewhere. It seemed that he was going to get out of Vietnam as slowly as possible, while selling the idea that he was getting out as fast as possible.

By spring, many doves had recovered enough from the doldrums of the 1968 campaign to consider new peace initiatives. Jerry Grossman, a Massachusetts businessman, first suggested the outlines of what became the Moratorium. Beginning with a student base, because that was all we could count on, we wanted to develop a single-issue citizen organization with sufficiently eclectic appeal to create a majority for withdrawal from Vietnam.

When we announced the Vietnam Moratorium in June of 1969, the four coordinators felt that it would indeed take a great deal of political self-discipline to succeed with our strategy: to gradually attract new peace constituencies on the right without either making unacceptable compromises or

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". . . a demonstration only requires going someplace for a few hours."

cutting off the left. We had to avoid following the ADA path (drifting to the right ideologically *without* gaining new support) and alienating the left at the same time.

The Moratorium plan for October 15 was to start on the campuses and organize outward into the community, seeking to slowly build peace constituencies. The public message was immediate withdrawal, which was then a radical position relative to the entire American political spectrum. We hoped to start in October with one day's cessation of "business as usual" and increase the moratorium period cumulatively by one day each month until the war ended. The initial call and the founding statement were very centrist documents. We tried to set a moderate tone in everything—from the choice of the word "moratorium" rather than "strike" to our constant encouragement of activities that would appeal to people just to the right of our student base—such as vigils, church services, candlelight ceremonies, and community canvassings. If we had started with more money, more visibility, or more Congressional support, we would have deemphasized our campus base even more; but, lacking all three, we had to organize from the campuses outward. Our specific targets for October were the social groups which had displayed sympathy for the peace movement—the clergy, women, senior citizens, doctors, lawyers, and educators—and we also attempted to reach labor unions and minority groups.

Across the summer of 1969, we received little press coverage and less support from Congressmen and Senators. David Mixner did most of the browbeating on the Hill and got nothing but smiles and encouragement from everyone but the handful of consistent doves, such as Congressmen McCloskey, Adams, Brown, Reid, Edwards, Koch, Ryan, Fraser, Riegle, and Ottinger and Senators McGovern, Hughes, McCarthy, Hatfield, and Goodell. There was a perceptible lack of raw courage on the part of most elected officials. Part of it was rationalized by the "extended honeymoon" argument that President Nixon would extricate us from the war if he had time enough. There was also a strong reluctance to criticize the President, growing out of a contagious inability to distinguish between the office and the man in it.

Two things happened in the fall of 1969 to make a summer's worth of low-profile organizing pay off in October. One was the Labor Day recess, when most Congressmen went home and discovered a great deal of disgruntlement with the war. They often found anti-war activities being supported by surprisingly "straight" people. Congressmen react very quickly to broad-based constituent pressure, and endorsements came in rapidly during September.

Also, Congressmen react to an informal perception of national mood, which they get from the media. Washington is a funny town, and things often occur largely because the right people say they will. Averell Harriman began saying that he thought the Moratorium was a good thing, and so did Ramsey Clark. Bernard Nossiter wrote an article in *The Washington Post* in which he struck a favorable tone and anticipated widespread activity on the 15th. A few columnists responded, and soon the mood became right in Washington. With the luck of this favorable mood, we convinced enough media people that a lot of things really *were* going to happen on October 15. Once the media began doing Moratorium previews, Congressmen with sensitive noses for publicity began to

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nibble at the Moratorium in the interest of a good headline. Most people on the Hill want to be helpful on the day they can get big press coverage—but not otherwise, or the next day.

October 15 was far more successful than we had even hoped, as Moratorium activities took place in more than 500 towns across the country and on most of the nation's campuses. The events were well covered, the tone was good, and many new groups were brought in. There were a lot of professionals: 700 attorneys in Boston, 25,000 people at a Wall Street rally, businessmen in Chicago, government and social workers, advertising and publishing people. Walter Reuther and Roy Wilkins participated, and the Moratorium was endorsed by many of the establishment Democrats who had been so reluctant to break with Lyndon Johnson over the war. There was a great deal of euphoria within the ranks of local Moratorium groups, and we at the national office found that success spawned an atmosphere of hope that new constituencies could be won over and that the movement would snowball. Although October was far bigger than we anticipated in terms of national impact and therefore did not fit in well with our plan of escalating peace actions, the four coordinators were quite optimistic.

Within a month the bubble had burst. The President's speech of November 3 and the reputation of the Mobe (New Mobilization Committee to End the War in Vietnam) neutralized many of the new peace activists in the Congress. Many of them felt that they had done their bit for peace in October and that it was prudent to coast for a while. The New Mobe leaders—Ron Young, Stewart Meachem, Cora Weiss, Fred Halstead, Richard Fernandez, and others—did their best to establish a non-violent commitment through the press, short of excluding hard left groups from the platform; but many people in Congress and the press still chose to see them as simply a bunch of Trotskyites, socialists, draft-dodgers, and militants. They conjured up visions of the leaders of the Pentagon march of 1967 and the Chicago demonstrations of 1968 descending on Washington for November 15, 1969.

The mood in Washington before November 15 was very tense. The press dwelled on the threat of violence, the Administration stalled negotiations on demonstration permits, and the citizens of Washington were afraid to open their doors to peace marchers. Meanwhile, we tried unsucessfully at the Moratorium to keep our activities on November 13 and 14 separate from the Mobe's large demonstration in Washington. But the Moratorium became a generic term for all anti-war activity, including the big march. We decided to support the Mobe activities, partly because we thought they clearly intended to have a non-violent demonstration, and partly because the events were going to happen anyway and would reflect on the whole peace movement. We doubted the wisdom of centralized marches and demonstrations at that time, but we found it impossible on balance to publicly criticize or abandon the demonstration of November 15, thereby splitting the peace movement and isolating the demonstration's sponsorship farther to the left.

The weekend of November 15 came off well, even with the Weathermen in town. On Thursday their leaders came to the Moratorium requesting an "expression of fraternal solidarity" in the form of $20,000. In return, they offered to give us an expression of fraternal solidarity by making the case for non-violence at the Weathermen strategy sessions. We refused. The next night there was a great deal of window-breaking around Dupont Circle and an assault on the South Vietnamese embassy (reportedly led by a police agent known as Tommy the Traveler). The police responded with tear gas and billy clubs. The Saturday crowd of some 300,000 was peaceful—governed by its own mood of flower-calm protest. There were no confrontations with the police (in fact, there was scattered fraternization) until the demonstration at the

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"Students came to the national office arguing that the system had failed to respond to their efforts. . ."

Justice Department against the Chicago conspiracy trial. Before 4:00 p.m. on Saturday there were no arrests—very unusual for a crowd that large.

But the tone was still wrong. The press focused on Saturday because it was going to be big and virtually ignored the impressive two-day March Against Death. Almost 50,000 people walked from Arlington Cemetery past the White House to the Capitol steps in a continuous, single-file procession. Each person carried a candle and a placard bearing the name of an American GI killed in Vietnam or of a dead Vietnamese or a destroyed village. The placards were dropped in coffins at the steps of the Capitol as the candles were blown out. But the press concentrated on the big demonstration, previewing it with speculation about the extent of violence and reviewing the day with crowd estimates and the usual line about the day's being generally peaceful with a few spicy violent actions by radicals.

The Saturday crowd was overwhelmingly young, partly because many young people had been angered by the President's first super-patriotic defense of the war in his November 3 speech. The Vice President made his barroom debut on November 13 with his first roundhouse at the media. The wedge was driven between the young moralists and the temperate pragmatists. The latter were partly neutralized by the November polemics from the White House, so they stayed away in even greater numbers than non-students usually stay away from demonstrations.

After November 15, Middle America saw the peace movement more than ever as a youth-based effort, with a sizable element of what seemed to them to be kooks, freaks, and lazy hippies. They saw it that way, even though it was largely untrue, and what they saw became operative for skittish Congressmen. Between then and the Cambodian invasion, virtually no one on the Hill did any peace work. Even committed doves were asking to be let off from speaking engagements on April 15. That is not only a bitter commentary on the state of the peace movement but also an indictment of the responsibility of traditional leaders on vital questions of peace and war. They were coming to *us* to be let off, and we were going to them pleading for support. We couldn't agree on a strategy, but it was generally assumed that we would provide the initiative and they the support. The world was upside down.

This is a third kind of vicious cycle within the peace movement: if you can't get straight, Middle American, Congressional support, the peace movement is seen largely as a youth cabal, which makes it impossible to attract Congressional support. Only a fortuitous national mood with the proper temperate tone or strong Congressional leadership can overcome that problem.

If polarization and the peace movement's youth identity had removed Congressional support after November, the Moratorium was also afflicted with fatigue. November 15 was a hard act to follow. There was a kind of huge peace orgasm in Washington that Saturday, and everyone went home to sleep it off, convinced that the war would never end if that demonstration had no effect. For the previous several months, families had been strained and studies neglected to generate the enthusiasm and organization for two months' demonstrations. The people were simply tired and resigned to the nation's acceptance of

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". . .but these efforts often were little more than canvassing for a weekend and going on some marches."

Nixon and his Vietnamization program.

There was also a fairly strong backlash against October 15, which took place in many little towns and went largely unreported. There were many places where October rallies had been put together in rather bizarre fashion by people regarded locally as the oddball biology teacher, the left-wing minister, and the kooky lady. After November, patriotic solidarity rose to attack such people by firing teachers who wore black armbands, harrassing participating students, and passing anti-demonstration ordinances. We spent a great deal of time trying to help the victims of this backlash.

We had trouble generating any enthusiasm out of the national office, and we really didn't have much to give. We discovered that our plan for a continuously building peace movement had succumbed to the cyclical rhythm of campus protest, the political season being fall and spring. December Moratorium activities were small in most places, and we abandoned the idea of escalating the Moratorium period each month. We fell back, regrouped, and made plans for a series of spring actions at income tax time focusing on the cost of the war.

During the period between November and April, the other coordinators and I found ourselves trying to cope with some of the Moratorium's failures, and recognizing new ones. For one thing, I became convinced that there was a serious lack of long-term commitment among many students. Time after time, students came to the national office arguing that the system had failed to respond to their efforts, but it almost always turned out that the students' efforts had consisted of little more than canvassing for a weekend in a 1968 primary, attending an October rally, and participating in some marches. They had not yet accepted the fact that ending the war would take a long time and a great deal of dirty work.

The Moratorium also had severe bureaucratic problems. The organizational structure followed from a kind of three-pronged anti-authoritarianism within the peace movement. There was a good deal of genuine intellectual anti-authoritarianism among those who had been active long enough to see (an Administration composed of all the great humanitarian liberals in the country) start a war, (who had personally witnessed the Mississippi Freedom Democrats' challenge being sold out (by Hubert Humphrey) at the 1964 Convention or who had found the CIA in control of the National Student Association in 1967. Who wouldn't develop an anti-leadership bias? This source of anti-authoritarianism inspired a great deal of the enthusiasm for McCarthy in 1968.

There was a purist branch of anti-authoritarianism, which taught that organizational discipline was in fact essential to the cause—but only after one made absolutely sure that the leadership was selflessly concerned with the pure gospel and not playing petty reform politics. The problem was that the Moratorium *was* playing reform politics in the sense that we were seeking political alliances with anyone against the war. We didn't feel we were operating in the wheeler-dealer school of political self-advancement, but some of the activities of the Moratorium clearly resembled traditional political bargaining. I considered that part of being serious about ending the war.

Finally, there was the normal amount of scrambling for leadership posts in all the Moratorium offices. People always

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debunked and frequently deposed the leadership if they felt they could do a better job.

The leadership problem was inherent in any organization of people who were peers in age, especially since there was no one of stature to offer himself as a full-time organizer for peace. Unlike 1968, there was no candidate to rally around. At the Washington office, we felt that young people always respond better and work harder if they have a part in formulating their objectives. At the same time, we felt that organizational efficiency is wiped out unless you reach a kind of consensus that discipline is necessary for operation. Otherwise, it's really impossible to organize a worthwhile canvassing campaign, for example, where discipline is critical for getting people where they are supposed to be, at at the right time, with the right opening lines, and with the information processed so that it will be useful.

The leadership question was most important in dealing with the left. I found it absolutely imperative that the Moratorium define itself away from the hard left in order to regain the constituencies we had reached briefly in October.

But White House polemics had made it futile for us to try to organize these groups because we were tied to what Middle America regarded as militants. Strategy aside, the labels pinned on the peace movement made it impossible to establish a credible commitment to non-violence, which was important to all four of us at the national office. It was incredible to me that President Nixon had managed to label us as the source of violence in the United States. Every month, he in effect takes $30 from every American taxpayer to ship across the Pacific Ocean along with 20,000 draftees. This is the installment payment on the 400 or so caskets and several thousand amputees and cripples that come back across the ocean each month. Every month tons of bombs are dropped on Vietnamese villages at the President's order, and yet he can find 10 sticks of

"The President has labeled us the source of violence in the United States."

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Michael Salzberg

dynamite on West 12th Street in New York and speak as though the apocalypse were upon us because the peaceniks are at it again.

One of the reasons the President can get away with such nonsense is that many of us in the peace movement failed to dissociate ourselves strongly enough from violence on the left. While I thought it morally necessary to separate ourselves from those who advocate violence, I found it very difficult to do. After the Dupont Circle violence of last November 14, I said for publication that I thought those people should be arrested and processed for criminal charges. I also said that it is outrageous to gas, beat, and press inflated multiple charges against window-breakers and petty vandals, but that part never got reported. The press stories came out to the effect that I thought the people had gotten what they deserved. Similarly, I've said on numerous occasions that the country will fall apart of internal hemorrhage if the war is not ended, and it always comes out: "If the President doesn't end the war, we're going to tear the country apart."

Splitting from the left was one of those tough, grisly decisions forced upon the peace movement by the politics of war. Although I couldn't buy the purist argument that only the hard left deserved credit for peace activities (an argument used to exclude people like Senators Harris and Mondale), it was personally difficult to break with friends in the Mobe and politically dangerous to split the peace movement when the chances of attracting real Congressional leadership seemed so low. And it also involved clear responsibilities for what happened afterwards, because I believe that if the hard left is really isolated, it will be repressed. If the moderate peace leadership stands up and says, "We intend to create a peace organization with a strong commitment to non-violence," the political impact of that will be to say "and that makes us a lot different from those kooks." No matter how hard you emphasize to the press that you will

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"We were in danger of becoming peace bureaucrats. . . so we decided to disband."

fight for the civil liberties of the people on your left, they will divide the groups into good guys and bad guys, leaving the latter fair game for Mitchell and Kleindienst.

It almost takes the press clout of the President to draw fine distinctions in the media. At the Moratorium, we could draw the coverage, but we could never really control how it came out. This made it impossible to move to the right without baiting the left with Agnew rhetoric, which we refused to do.

The responsibility question weighed heavily in our strategy sessions this past winter, even though we may have vastly overestimated the Moratorium's effectiveness as a buffer between the government and the Mobe. We have argued for some time that we on the left have to take responsibility for the consequences of what we say. When William Kuntsler says we've got to overthrow the government by force, but not by violence, to a 15-year-old kid that means break windows and throw bricks. You can't retreat into academic distinctions between moral force and physical violence after speaking on a political platform.

All these problems—Nixonian polemics, Vietnamization, fatigue, the question of the left, bureaucracy—plagued the Moratorium during the peace movement's "low profile" period from November until Cambodia. At the Washington office, we tried to resist the opening to the left which tempts all groups on the left that don't hold power. In order not to become another SNCC or SDS, the national coordinators had to repeatedly say no to the left options within the Moratorium. David Mixner was the toughest on this question, and I was second house rightist. Local Moratorium offices commonly fought the same battles that were going on in the Washington office.

Two conclusions became obvious in April. First, the national Moratorium office was more of a burden on the local groups than a help. We were in danger of becoming peace bureaucrats, full of jurisdictional squabbles and petty fights, with no sense of joy or purpose in what we were doing. So we decided to do what all stale organizations should do—disband, and let the good local groups survive on their own and the bad ones fade away.

The second conclusion was more fundamental: that our strategy was right but that our base was wrong. I am convinced that it is not possible to build a successful peace movement simply on a student base. Not enough students have the stature, capacity, or inclination to run a tightly-disciplined peace movement, which would be required to make them effective and keep them moving toward Middle America. Even if such an organization were possible, students *alone* would be unable to attract a majority of the American people to any politically effective peace position. Students can have an impact, since most Americans still don't want to hate their own children. But you must have strong leadership off the campuses to set the tone and direction of the anti-war effort and to give it hope.

This second conclusion made it easier to go to Capitol Hill in April and tell the hesitant doves that if they cared about peace in Vietnam *they* could provide the leadership. Through the entire history of peace politics, Congressional doves had very seldom spent a full day's effort on the war. They gave speeches on occasion. But within the Senate there was no organization, no regular meetings, no commitment to get together and sublimate their egos to produce a piece of

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"I think the President has won a large part of the Vietnam debate merely by naming the teams."

legislation, no serious intention to debate the war on the floor of the Congress, no effort to raise the money to use television in response to the President, none of that. This was particularly galling right after the Carswell vote in April, when these same Senators had come from nowhere to beat him with hard work and internal organization. They had also undercut the moderate peace leadership and the new constituencies of October. In October, we had one resource to use in dealing with the left—we could deny them speakers and publicity if they didn't move toward the center. But in April we had no cards: a rally of 80,000 people was held in Boston with no control over hard-left factions because our support on the Hill had evaporated.

Our message had paltry effect compared with the invasion of Cambodia, of course. But even Cambodia failed to provoke the kind of leadership necessary to move the Congress and take the war to the country. The initial spurt of enthusiasm in the Congress, especially in the Senate, has largely ebbed. Regular meetings of anti-war Senators have ceased, and there is little evidence of the cooperation or initiative necessary to effect a strategy to end the war.

The outline of a successful anti-war strategy, it seems to me, is clear: the appeal must be made in such a way that Middle Americans will not ignore the substance of the argument because of an offensive style. Support for such an appeal exists. After all, immediate withdrawal is not a radical proposal in this country today, and careful analysis of the polls shows that all political stances on the war must be couched in terms of reaching the quickest possible termination. This indicates that a quick political settlement or immediate withdrawal can become a majority position if the message is presented in a strong but palatable fashion.

While peace activists should not underestimate potential support for an anti-war position, we should also avoid underestimating President Nixon's commitment to some sort of victory in Southeast Asia. I believe that the President's "new" image as a cool, neutral majority-maker, a consummate politician who responds and shapes rather than leads, considerably understates his ego commitment to the war. We are dealing with a man who has a full-time awareness of himself as history—the first President ever to name his own doctrine, the Nixon Doctrine, which I suspect was motivated as much by the simple desire to place his name on the books as to enunciate whatever its meaning is. We are dealing with a man who felt called upon by the world to issue a "State of the World" message, to dwell upon its historic primacy, and to quote himself 27 times in the document while citing all other human beings in history only three times (all three of these quotations were of Secretary of State Rogers agreeing with the President). The President has read the history books and knows that the great Presidents of the United States won wars. He even knows what room of the White House was used to announce the great wartime decisions.

These ego commitments are very harsh terms in which to describe a crucial motive for the Administration's continuation of the war, but I find no others which make as much sense. There is no more plausible way to explain why the President did not end the war right after he came into office, with little or no political risk. Nor can I otherwise ex-

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"Americans will not respond favorably to violence committed in the name of ending the war."

plain his total aversion to Congressional moves toward sharing the political responsibility for ending the war.

The President's personal commitment to the war helps explain why he goes for the political groin to justify his actions. He uses patriotism and the flag, which are deep-seated loyalties for most Americans, to stimulate support for a war which clearly calls forth no such loyalties. He uses the media presence of the Presidency to characterize the opposition as near traitors. I think the President has won a large part of the Vietnam debate in the past merely by naming the teams. When it's the Silent Majority versus the Loud-Mouthed Militants, the Silent Majority wins every time. He and the Vice President have also managed to sell the incredible notion that the press of the United States is left-wing. People who believe that have obviously never attended a convention of the American Society of Newspaper Editors, where the sentiment is overwhelmingly conservative, verging on outright jingoism.

Since the country drifts toward impatience for withdrawal as the war drags on, the President will have to continue seeking the jugular if he clings to the victory wish. This is one of the greatest dangers to the peace movement; for when the dialogue over the war is degraded past a certain point, it ends. (Liberals should remember the converse: that when the dialogue is elevated to a certain level of generality, involving, for example, petty squabbles over doctrinal minutiae, then the talk goes on forever without action.) People can no longer talk to each other, and confrontations based on tribal sign language become the norm. In all political likelihood, most of Middle America would line up with the President in any such jungle warfare.

The atmosphere of debate over Vietnam is already so debased that it will be very difficult to take the high road—to offer the American people the kind of positive tone and hope which would stand out by contrast with the President's increasingly defensive and visceral statements. It will be impossible to do so without very strong leadership. I suppose that is the heart of my feelings about the peace movement—that the strategy can be devised, that the constituency is there, but that these assets are useless without strong, non-student leadership. The money will follow evidence of leadership. If my analysis of President Nixon's objective in Vietnam is on the right track, the task will be very difficult, but all the more imperative.

The leadership must have the media presence to counter the President's enormous TV influence. Someone must respond to his smears on the patriotism of doves. A figure like Harold Hughes would have great impact if he said in effect: "Look here, Mr. President, we're not talking about campus bums. We're talking about whether Vietnam is worth continued killings and maimings. I fought through Europe in World War II and consider myself as American as anyone, but that was 25 years ago. And the fact is that Vietnam stands between us and everything America hopes to become." The leadership must be willing to talk about Vietnam in terms that will appeal to Middle America—to rename the teams so that we start on ground zero with the hawks, rather than at an emotional disadvantage.

Part of the new message must be the destruction of the silent majority myth. The only clear lesson of the polls is that most Americans want an end to the war. If the President were to use television to justify withdrawal on the grounds that

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"Students could make it clear to Nixon that they will write his history."

we had done all we could or that the South Vietnamese government was corrupt and unworthy of support, I believe he would receive 70 per cent support. The silent majority is largely produced by the American propensity to defer to the President. In March of 1968, for example, the Gallup poll showed 40 per cent for and 51 per cent against stopping the bombing of North Vietnam. After President Johnson stopped the bombing, the polls showed 64 per cent for and 26 per cent against his decision. The silent majority appears quite malleable.

Not only must the silent majority argument be exposed as a sham, but the popular characterization of doves as militant, long-haired kids and the silent majority as middle-aged and middle-class must be dispelled. Young people as a group are *not* more dovish than old people, nor do overeducated eggheads tend to be more dovish than "the folks." In fact, the polls show that college-educated people in their twenties are consistently more hawkish than older non-college graduates, by a significant margin of about 20 per cent.

In addition to establishing a tone acceptable to Middle America, renaming the teams, and destroying Presidential myths, the peace leadership should use the media to make becoming a dove more psychologically attractive to Middle Americans. Prior emphasis on the moral aspects of the war has meant that the first psychological step toward an anti-war position has of necessity been the admission that the United States is somehow evil. Since many people are unable to make that jump, an admission of American guilt should not be asked of all potential supporters. To the extent that we in the peace movement have played down the pragmatic arguments for peace, we have weakened our case—and lessened our chances of ending the war. It is in no way inconsistent with our moral opposition to the war to lay much greater stress than most of us have as yet on the great practical benefits of peace.

This new peace leadership should be composed of Senators, Congressmen, governors, mayors, businessmen—all the straight people who are willing to make a firm and unequivocal commitment against the war. The spokesmen should be those most visible and most attractive to Middle America, those who can speak intelligently about the war with strength rather than condescension or aloofness.

The five co-sponsors of the Amendment to End the War already have a list of some 75,000 people who responded to the Senators' television special after Cambodia, which could be the beginning of a peace constituency. What is needed is commitment from a large number of people willing to cast a "bullet" vote for peace. This commitment may be less organized than a party or formal corporate structure.

The new peace leadership must make it clear that it is in for the duration—until the end of American involvement in Indochina. The cyclical activity of the anti-war movement has had a double disadvantage in the past: during periods of upswing, the peace movement has overestimated its effect and thus paved the way for subsequent acute frustration and resignation; during the downswing, the government has underestimated latent anti-war sentiment, and this has possibly contributed to adventurism.

If the focus of the peace movement could be shifted to the new and long-awaited leadership, young people would be far more effective politically. I don't think we have to hide who we are, or even what we say. We should merely recognize the fact that the political bal-

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"The system should not be applauded even if the war were to end tomorrow."

ance on the war is held by people with different life styles. Students could be a left, moral pressure on the coat-and-tie leadership. Students could make it clear to Richard Nixon that *they* will write his history and that all wars are not heroic. They could make it clear that there are *costs* held against those who wage this war. Those who wage the war should be constantly reminded that they are responsible for a moral horror—like the British Viceroy in colonial India. Every time the Viceroy showed his face in public, he saw a silent Indian holding a sign which read "Assassin." Lyndon Johnson and Richard Nixon should be subject to the same treatment. We should make them aware that there are large numbers of people in this country who hold them responsible for criminal activities and who believe that those who wage the war cannot cast off the responsibility merely by leaving office.

There is no assurance at present that a new peace leadership is forthcoming, although recently several prospective leaders have been leaning toward conscience and away from conservative careerism. If these people were to emerge, I believe that it is quite possible to build a peace constituency and create a national atmosphere in which it would not be possible to wage the war. This would be partly a matter of national mood, which is highly volatile and heavily influenced by unexpected events.

A renewed peace movement would also exercise political clout, apart from its impact on the nation's war temperature. The National Rifle Association is an unpleasant model; but if a tiny fraction of the population can stop gun control with organization and the bullet vote, then the peace movement can stop the war. The new constituency would have obvious potential in 1972.

All these ruminations have been predicated on certain traditional assumptions: that people's political opinions should count, that democracy can be made to work, that there is enough good will left in the country to make it work, and that given a choice between rational alternatives, Americans will choose the most humane course. At the same time, the American people have shown that they will not respond favorably to violence committed in the name of ending the war, or to a version of democracy that romanticizes about participation of the poor and the black but ignores the middle, or to peace advocates who think demonstrations are a substitute for the sustained work of peaceful persuasion.

But the "system" should not be applauded even if the war were to end tomorrow. For five years, it has provided no real way for people to express their views on a war which was presented to them as a test of manhood. The system provided no public debate over whether we should enter the war, but instead permitted our leaders to involve us by stealth. This critical failure gave inertia to the propagation of the Vietnam war and sneaked the flag onto the battlefield —leaving the peace movement at an enormous political disadvantage. The system has provided poor information to voters and little active leadership for a position of obvious principle.

If the war is now ended by political action, as I believe it can be, some will undoubtedly argue that the system has vindicated itself. That argument, however, is self-deceiving; for in many crucial respects our system has already failed and requires radical reconstruction.

But that is premature retrospection. If the war can be ended only with such self-delusion, we should end the war now and fight the delusions later. ■

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with introduction by Richard H. Rovere

FROM THE TABLE OF CONTENTS:

The White House Staff vs. the Cabinet	**Bill Moyers interviewed by Hugh Sidey** The most celebrated of the Johnson assistants talks about the growing power of the White House staff.
A Senator's Day	**by James Boyd** The most pressing business in the Senate has little to do with lawmaking.
Behind the Scenes and Under the Rug	**by Howard E. Shuman** The Douglas Commission's life and hard times. Starring: the American city. Featuring: Paul Douglas, LBJ, Robert Weaver, Joe Califano, Robert Wood.
The Cost of Cowardice: Silence in the Foreign Service	**by William Bell** What happens when good men don't speak up. Why they don't.
The Highwaymen	**by David Hapgood** In the battle over urban highways, much of the government is aligned with the highway lobby. This explains why.
Jamie Whitten: Permanent Secretary of Agriculture	**by Nick Kotz** How one Congressman from Mississippi uses his power as chairman of an appropriations subcommittee to preserve malnutrition as our most inexcusable national problem.
The Data Game	**by Arthur M. Ross** How statistics can bring good men to grief.
The Special Assistant	**by Russell Baker and Charles Peters** Washington's right-hand men: as Iago, as Informer, as Thinker, as Speechwriter, as Nitpicker, as Yes-Man.

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Claude Pepper's Crime Stoppers

by Eric Lax

On May 1, 1969, Law Day, a day during which, if it was statistically normal, some 30 murders, 75 forcible rapes, 550 robberies, 700 aggravated assaults, and 4,400 burglaries were reported in America, the House of Representatives created, by a vote of 345 to 18, a Select Committee on Crime, which was a sensible thing for it to do. The Committee took three months to get organized, by no means an excessive amount of time to spend on assembling a staff and laying out a program, and on July 28 it formally began work with a series of "overview" hearings in Washington. Now, a year and $900,000 later, it has held altogether nine sets of hearings, whose recorded proceedings run to more than 2,400 printed pages, in various parts of the country—including the well-known crime capitals of Columbia, South Carolina, and Omaha, Nebraska, which also happen to be the stamping grounds of the Committee's two most active Republican members—and it has introduced two bills, one to limit the production of amphetamines and one to authorize a medical study of the effects of marijuana.

That's all it has done. It has not developed a legislative program for reducing crime. It has not inquired into, much less analyzed, the Executive Branch's anti-crime activities. It has not increased public understanding of the complexities of crime and crime control. It has not even developed within its own membership any particular expertise about crime. And it is unlikely that it ever will do any of those things.

This is not a surprising story, of course. Anyone familiar with the daily happenings on Capitol Hill can tell a dozen similar ones. However, it is (like the dozen similar ones) an instructive story for the way it illustrates the unabashed frivolity with which Congress all too often fritters away opportunities for significant public service. The Select Committee on Crime certainly had—indeed may still have— such an opportunity. Though just about every Congressman at one time or another has intoned that crime was one of the most pressing social problems in America, though the 1968 elections demonstrated

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that it is the country's most gripping political issue, though the Executive and Judicial Branches have been grappling with it more or less manfully for years, though the D.C. Crime Bill was before Congress this summer, the Legislative Branch has taken little serious initiative on the subject—unless the activities of Senator John McClellan of Arkansas can be described as a serious initiative. In fact, until the creation of the Select Committee, Senator McClellan's investigations subcommittee was the only body on either side of the Hill that came close to devoting its full attention to crime. And of course the chief occupation of the investigations subcommittee is publicizing and, if possible, enacting into law its chairman's crotchets about crime, notably his fondness for eavesdropping, his distaste for "coddling," and his certainty that any and every civil disorder is directly attributable to the work of political conspirators. (In neither house has the Judiciary Committee, the committee with primary responsibility for crime legislation, made much effort to devise programs of its own, but rather has been content to accept or reject or amend the programs proposed by the Department of Justice or the White House.) In sum, the Select Committee had a clear field to work in and, in the person of Claude Pepper of Florida, it appeared to have a chairman able and willing to work in it. Pepper had labored for a year to persuade the House to authorize the Committee, and so, presumably, he was dedicated to its work. He had been an ardent New Deal Senator from 1932 to 1948, and so, presumably, he was a partisan of innovation and humaneness, two ingredients that all too many official crime-busting programs lack.

The Committee showed enough promise at the outset to attract a staff of considerable professional ability and standing, including, as chief counsel and deputy, two Washington lawyers whom it would be hard to characterize as naive. The former, Richard Kurrus, an astute and successful admiralty lawyer, knew little about crime, but he was something of an expert about how things get done in Washington and who's who on Capitol Hill. The other, Thomas McBride, a prosecutor by trade, had served on District Attorney Frank Hogan's staff in Manhattan and in the Organized Crime Section of the Justice Department before putting in a hitch on the overseas staff of Peace Corps and then on the organizing staff of the Urban Coalition. Both men believed that part of the Committee's potential was as a stimulus for thoughtful and wide-ranging, as opposed to McClellanesque, public discussion about crime and what to do about it. McBride, with his experience in community organizing abroad and at home, even hoped that it might mobilize citizens, individually and in groups, to find ways to help the criminal justice system that would be more effective than pasting stickers saying "Support Your Local Police" on automobile bumpers. Moreover, such ideas seemed to accord well with Chairman Pepper's frequently and peremptorily expressed wish that the Committee's activities produce a maximum amount of publicity.

The King of Hearts

A fairly accurate preview of what was to come of such hopes and promises appeared in *The Washington Post* on the morning of Monday, July 28, the day the first series of hearings began. During the previous week several members of the staff, including a $100-a-day consultant, had spent a good deal of time on drafts of the opening remarks which the Chairman would deliver that Monday and which presumably would set the tone for the Committee's work. The comma-chasing, nit-picking, and fly-specking wasn't finished until the middle of Sunday morning, by which time the Peppers were dug in for the weekend at Rehoboth Beach. Kurrus, understandably, felt that the Chairman should have an opportunity to approve or disapprove of what he was going to say before he found himself saying it. He arranged

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with a staff member, an aviator who owned a plane, to fly the manuscript and its authors to Rehoboth Beach. Then he telephoned Pepper to announce that plan. Pepper would have none of it. He was busy that afternoon and evening, he said, and besides he trusted his staff not to write anything for him to say that he shouldn't say. Kurrus cancelled the flight, and Pepper never did see his opening remarks until he was just about to deliver them—which he did without changing a word.

The speech contained a good deal of vigorous rhetoric along the lines of "become recognized as the action committee in America's effort to control crime" and "means to find remedies" and "intend to suggest legislative and administrative actions against crime that states and localities can take." In view of how much the Chairman contributed to composing such phrases or, for that matter, how much he cared about their contents, the amount of attention the Committee has paid them has been exactly what one might have expected. The front page of the *Post* Style section that morning revealed what had kept him busy at Rehoboth: it carried a four-column photograph of Pepper and his wife at a charity ball elaborately costumed as the King and Queen of Hearts.

More often than not the House creates a select committee like the Pepper Committee to give a venerable and well-liked member like Pepper a measure of authority and prestige that the workings of the seniority system prevent him from obtaining through the regular machinery of the House. In other words, such a committee more often than not is—and is intended to be—a personal vehicle for its chairman. If its chairman has strong views he wants to broadcast or a particular program he wants to promote or a specific situation he wants to investigate, and if, above all, he is hard-working and hard-driving, a select committee can be potent. But if the chairman doesn't have anything special in mind, it is unlikely to be, since its other members, with the possible exception of the senior minority member, will probably be fully occupied with frying their own fish and will consider that they have been selected for the committee for purposes of ornamentation rather than function. Certainly the letterhead of the Select Committee on Crime is ornamental enough. All of the Representatives whose names appear on it are lawyers, but otherwise they have little in common, having evidently been chosen by the Speaker on a "balanced ticket" principle. There is a conservative Republican from southern California, Charles Wiggens, and a liberal Democrat from the Bay Area, Jerome Waldie. There is a Republican ex-FBI man from the corn belt, Robert Denny of Nebraska, and a Democratic ex-judge from the industrial Midwest, Martha Griffiths of Detroit. There is a black Democrat from the urban Northeast, Robert Nix of Philadelphia, and a fundamentalist, segregationist Republican from the rural Southeast, Albert Watson of South Carolina.

The Spectrum of Effort

The amount of work the Committee members other than Chairman Pepper and ranking minority member Watson have done has ranged from almost none to a little. In the former category are two of the members who might be expected to have the most to contribute, Mrs. Griffiths, who used to be a judge in Detroit's assembly-line Recorders (misdemeanor) Court, and Nix, who represents a black ghetto. Neither has devoted more than four or five days to Committee business during the year of their service. Indeed Mrs. Griffiths, a hard-working and influential member of the Ways and Means Committee, has been too busy. Nix has less excuse except for his fear of flying, which makes it impossible for him to attend distant hearings. Wiggens (who was one of the 18 members to vote against creating the Committee in the first place) and Waldie have shown up for meetings and hearings more often than Mrs. Griffiths and Nix,

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but not often enough to exert much influence. Waldie, of course, has been preoccupied with his onslaughts on the House seniority system—he wrote the letter to McCormack asking for the Speaker's resignation—and, besides, he confesses that Pepper was one of his childhood political heroes and that he is loath to embarrass him in any way. Wiggens, perhaps the brightest member of the Committee, evidently feels the exercise is too futile to be worth bothering much about.

Denny, who is only in his second term and therefore is not overburdened with committee work, has been somewhat involved—especially during the hearings in Omaha, which is close to his district. However, his impact has been no greater than that of the others, perhaps because his views about crime are rather unspecific; if a parable he sometimes uses when he discusses the subject is any indication: "When a blizzard comes across the plains, buffalo lower their heads and walk into it, thereby getting out sooner. Cattle, on the other hand, drift with the storm, stay in longer, and thus many die from the cold. It's time for the U.S. to head into the storm."

As for Watson (the ex-Democrat who was stripped of his seniority for supporting Barry Goldwater in 1964 and thereupon resigned his seat, ran as a Republican, and was elected), he is running this year for governor of South Carolina. His habitual manner of discussing crime is to inveigh strongly against "the failure of the home to instruct in obedience to the law" and "the breakdown in morals" and "the permissiveness we have today" and "getting away from religious tenets." What he suggests Congress do about those matters he has not made entirely clear, but presumably such talk pleases many of the folks back home. Doubtless they were pleased also when he fiercely attacked as "medical gobbledegook" the statement by Dr. Stanley Yolles, then the director of the National Institute of Mental Health, that marijuana was neither narcotic nor addictive, and when he told Patrick Okura, a Japanese-American who is administrative director of mental health planning for the Nebraska Psychiatric Institute, that the forced evacuation of the Nisei (including Dr. Okura) from the West Coast in 1942 was not really America's doing but Japan's—a logical consequence of bombing Pearl Harbor. Indeed, in a negative way Watson controls the Committee; since Pepper is not inclined to fight very hard for any proposed line of action, Watson can block anything he feels he should.

Between July 28 and New Year's Day, by which time McBride had resigned and Kurrus was about to, the Committee held seven sets of hearings, only one of which threw any new light on any old or new subject. The opening "overview" hearings in Washington lasted two weeks or, in the words of Waldie, "dragged on and on." They featured such star performers on the crime wheel as the Attorney General; the then-administrator of the Law Enforcement Assistance Administration, Charles Rogovin; Mayors Alioto of San Francisco and Stokes of Cleveland; Professor James Vorenburg of the Harvard Law School, who had been executive director of the National Crime Commission; and dozens more. These eminent citizens told the Committee that crime is a social problem and that there is too much of it, that very often adult criminal careers start with juvenile delinquency, that the police are not well enough trained or equipped, that the courts are inefficient, that jails and prisons generally do more to make criminals out of their inmates than to "correct" them, that it is necessary to find non-punitive ways of dealing with such people as drug addicts and alcoholics. In short, they told the members of the Committee what they could have read, if they had cared to, in four Presidential study commission reports and what, in any case, most of them probably knew perfectly well to begin with.

The Committee then hit the road. In late September it spent two days in Boston learning nothing new about drug

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abuse. In early October it spent three days in Omaha learning nothing new, not only about drug abuse but about juvenile courts as well. That trip did produce a photograph of Pepper standing in a field of marijuana—of which there are allegedly 115,000 acres in Nebraska— telling a reporter from the Omaha *World Herald* that he was preparing to introduce legislation "to help state and local communities to eradicate all this." (Unless the bill to study the medical effects of marijuana meets that description, there has been no sign of such legislation to date.)

Pot Draws a Full House

The extraordinary feature of the third set of hearings, which were held in Washington in the middle of October and were entitled "Views on Marijuana," was not the views on marijuana that were elicited, since they were the views that had been circulating for years, but the fact that every single committee member attended, at least for a while. That's the only time that has happened. The extraordinary feature of the fourth set of hearings, which were held in San Francisco, just across the Bay from Waldie's district, at the end of October and were entitled "Illicit and Dangerous Drugs," is that they produced some worthwhile material. That's the only time that has happened. The disclosures at those hearings of how American drug manufacturers legally fill the orders for drugs, especially amphetamines, of Mexican "drug houses" that actually are nothing more than letterheads, and how those "drug houses" manage to get the drugs back into the United States, led to the Committee's only really constructive action so far, the drafting of its bill to limit the production of amphetamines. Three weeks later research into this subject resumed for a day in a Washington hearing called "Why Eight Billion Amphetamines?," a question whose unsurprising answer turned out to be that drug manufacturers make a lot of money from amphetamines. Two days later the old routine began again, with two days of hearings in Albert Watson's Columbia, S.C. ("Crime in America—Response of a Mid-South Community") and in early December there were four days of hearings in Claude Pepper's Miami. It was a performance typical of the way the Committee has worked, a replay of the first "overview" hearings at which the witnesses restricted themselves to reciting what everyone already knew.

Kurrus and McBride took no part in arranging the Miami hearings. By that time they had decided to leave, in good part precisely because the amount of time and energy that was needed to arrange and conduct roadshows of the Boston-Omaha-Columbia-Miami variety was so great that it left little time or energy for productive work. Besides, the preoccupation of the Committee — or, more precisely, the Chairman, since he was the only Committee member preoccupied with, or even interested in the Committee's work—with public displays that were supposed to produce splashy publicity (but somehow never did) kept it from acting on staff proposals to do some investigative or legislative work that might conceivably help reduce crime in America. On December 15 McBride wrote the Chairman a seven-page memorandum in response to a request for his views on the Committee's legislative program. He began by quoting from an August memo of his which had proposed that the Committee work on legislation to set up a National Institute of Corrections, to provide funds to help states and localities improve their courts, to furnish large-scale assistance to raise the standards of juvenile justice, to overhaul and upgrade federal juvenile delinquency prevention and control programs, and to create a federal agency to stimulate volunteer citizen action that would help the agencies of criminal justice. He then quoted from a September memo that said, "To date there has been no Committee discussion of this legislative program. . . . Furthermore, due to the total involvement of the legal staff in the work for the field

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hearings, no staff person has been actively developing and refining the legislative program. These issues require early attention of the Committee." He then quoted from an October memo that said, "Due to the extremely ambitious program of hearings, public appearances, and other activities, there has been insufficient opportunity for the serious in-depth discussion between you, the other members of the Committee, and the staff concerning the broad legislative strategy of the Committee." And finally he listed the status of four crucial staff proposals: "No formal agreement has been reached. . . pending consideration and approval by the Committee. . . "; "Committee approval has not been obtained as to this"; "The Committee has not acted on these. . . proposals"; "No action was taken."

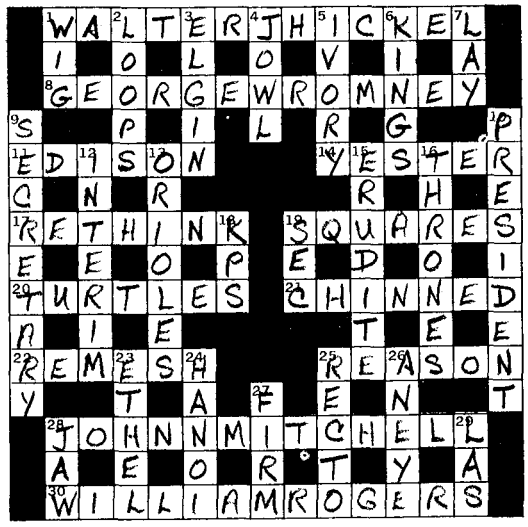
With the departure of Kurrus and McBride, the Committee went into a period of hibernation. It wasn't until spring that it acquired a new chief counsel, Paul Perito, an alumnus of Robert Morgenthau's staff, and resumed its hearing schedule with a four-day stint in Washington, half of it in high-crime neighborhoods. On the last day Chairman Pepper, the only member in attendance, solemnly listened to and had included in the record the song of the Crime Stoppers Club, Inc., an organization of 8 to 12-year-olds. It goes:

We are Crime Stoppers stamping out crime.
We are Crime Stoppers while in our prime.
We're on the law and order rollcall,
Declaring war on crime.
For we are Crime Stoppers, we are one and all.

Recently, despite Perito's efforts to steer the Committee onto a more rational course, it has held hearings of similar usefulness in Baltimore and New York; one was scheduled for July in Philadelphia, Nix's hometown. (That leaves only Wiggens and Mrs. Griffiths without local crime-fighting exposure, and doubtless they'll be able to get their turns if they want them.) Perito, according to all the signs, is beginning to experience the same sensations of frustration and futility that drove Kurrus and McBride off the Hill. His speciality is organized crime, and he would like to get the Committee to do some real digging into that subject; but the Chairman apparently is no more ready to work hard on organized crime than he was on juvenile delinquency or citizen action or court and correctional reform.

Meanwhile, on both sides of the Hill several dozen unselect members of Congress have been trying conscientiously, if not altogether successfully, to handle such prickly and urgent issues as preventive detention for "dangerous" suspects and "no-knock" police searches and mandatory minimum sentences and court reorganization in the District of Columbia and the way the Safe Streets Act is being administered by the Law Enforcement Assistance Administration. Those issues are where the Congressional action on crime is right now. About them the House Select Committee on Crime, "the action committee in America's effort to control crime" to use Pepper's words of a year ago, hasn't uttered a syllable. ■

Answers to the July **Political Puzzle:**



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Memo of the Month:

(The following chart accompanies a General Services Administration order of May 28, 1970, on "guidelines for using communications media.")

COMMUNICATIONS MEDIA SELECTION CHART

IF THE MESSAGE			USE			
			LETTER 1/	TELEGRAM 1/	FACSIMILE TRANSMISSION 1/	TELEPHONE (FTS)
Is urgent (speed of delivery)			NO	YES	YES	YES
Requires interaction (discussion)			NO	NO	NO	YES
Requires verbatim record			YES	YES	YES	NO
Includes words and numbers only			YES	YES	YES	YES
Includes words, numbers, and graphics			YES	NO	YES	NO
Is security classified 2/			Thru Secret—YES Top Secret—NO	Encrypted YES	NO	NO
Typical Costs	Preparing (or Talking)		$3.35 3/	$3.04 3/	$3.35 3/	$0.74 5/
	Trans-mission	Unclassified	0.06	3.00 4/	2.50 8/	0.90 6/
		Sec. Classified	1.10 7/			

NOTE: This chart provides general guidelines only and should be used in conjunction with the cited GSA orders. Letter preparation costs, developed by NARS, are based on the Government-wide average time to prepare a typical one-half page, 175-word letter in offices where letterwriting is a major activity. The average time to prepare a typical 50-word telegram is assumed to be slightly less.

1/ GSA Administrative Manual, chap.5 (DOA 5410.1), and GSA Supplement to the United States Government Correspondence Manual (OAD P 1804.3A).
2/ HB, Security Regulations (OFA P 1025.4).
3/ Typical average cost to prepare a 175-word letter or a 50-word telegram.
4/ Based on the national average 50-word message transmitted at $0.06 a word on intercity networks only. There is no additional charge for encrypting security classified messages.
5/ FTS calls are typically made by GS-9 and higher grade employees. The cost shown is based on the salary rate for GS-11, step 5, for the national average 6-minute call.
6/ National average sample cost is $0.15 per minute. The average call is 6 minutes.
7/ Registered mail with return receipt.
8/ One full page or up to and including 8½ x 14 inches as set forth in GSA Bulletin FPMR F-54, par. 6 (March 26, 1970).

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THE CULTURE OF BUREAUCRACY:

Washington's Other Crime Problem

"Men of intellectual and moral eminence who encourage public disobedience of the law are responsible for the acts of those who inevitably follow their counsel: the poor, the ignorant, and the impressionable."
—Richard M. Nixon

by John H. Rothchild

The D.C. Crime Bill doesn't mention it, but one of the worst breeding places of lawlessness in the nation's capital is inside the federal bureaucracy.

A pattern of consistent, willful, and open violation of statutes, Congressional mandates, court decisions, and the Constitution has emerged from some of the agencies entrusted with selling poor people on the idea of law and order, the agencies that are supposed to improve the social and economic conditions that harbor crime and produce riots.

Far from eliminating the conditions that create crime in the ghetto, those agencies (the Department of Health, Education and Welfare and the Department of Housing and Urban Development, among others) have themselves become extensions of the ghetto—pockets where ritual rules over regulation, where power alters and then becomes the law, and where illegal acts are often matters of survival, of procedure, and of business-as-usual. (Similar patterns of lawlessness can be found elsewhere in the federal government, nota-

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bly at the Pentagon, but here we are concerned only with agencies that purport to help the poor.)

Out of the illusions of the New Frontier, where the boundaries of justice, law, and a decent life were supposed to extend to include all citizens, we have fashioned an Old Frontier, where the ideals expressed in Congressional legislation are so far removed from the realities of the political and economic power structure as to be essentially unenforceable. What we accepted in principle, and told the government to do, goes far beyond what we are able to enforce in practice; and following the law, in some agencies, has become a courageous act, and therefore an infrequent one. For example, in the wave of firings at HEW and Justice and the Pentagon in the past year, the common factor is that those ousted were held guilty of attempting to obey the law.

It is by no means certain that any of the benevolent federal programs, where rhetoric is often more lavish than appropriation, could succeed even if they carefully followed all of their mandates. Bureaucracy has proven to be an impotent and often counterproductive means of solving human problems. But when a government—whose stated goal is a just society—chooses not to follow its own laws, the damage goes beyond that of mere inefficiency or insufficiency.

The most glaring examples of this condition (and convincing ones, since the agency admits them) are contained in a report recently compiled by HEW. In an unusually self-revelatory gesture, HEW said that 39 states and the District of Columbia are violating federal regulations, acts of Congress, Supreme Court decisions, or all three, in the operation of federally-funded welfare and social rehabilitation programs. HEW continues to fund these programs.

What HEW doesn't say in its report is that this kind of thing has been going on for years and has become accepted practice. Until about four months ago, HEW not only failed to enforce the regulations, it didn't even bother to systematically record the violations.

The violations that HEW now admits, in a state-by-state breakdown, are not mere fine points of law over which reasonable men may quibble. They are not individual abuses; they are illegal state policies. In most cases, they are blatant refusals to submit plans, as required by the government, explaining how regulations will be implemented. This means that most of the states named have not only failed to follow the law, they have refused to register even an intent to follow it—that chronic, scoffing kind of disrespect that judges find in hoodlums.

The violations are stated by HEW in bland federalese:

Arizona. Deprivation of parental support: Compulsory inclusion of unrelated man in AFDC assistance grant; income of unrelated male is assumed. (Arizona had eight other categories of violations.)

California. Adjustment of maximum payment—AFDC: maximums not proportionately adjusted. (California had seven other categories of violations.)

District of Columbia. Adjustment of assistance standards: standards have not been fully updated. (The District had eight other categories of violations.)

Hawaii. Need and amount of assistance: differential treatment of applicants and recipients of AFDC in amount of assistance grant. (Hawaii had seven other categories of violations.)

Indiana. Prior notice of payment termination: recipients are not being provided prior notice of payment termination and decreases. Fair hearings: not carrying out fair hearings requirements in practice. (Indiana had five other categories of violations.)

Not surprisingly, HEW's report provides no figures on the importance of the state violations. Its prose is calculated to put any but the most devoted observer to sleep, when, in fact, the law breaking permitted by HEW adds up to a massive deprivation of human rights. Welfare critics like Jonathan Kaufman,

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"If the law were fully enforced, twice as many Americans would be on the welfare rolls."

research director of the National Welfare Rights Organization, and Richard A. Cloward of Columbia University estimate that if the law were fully enforced, twice as many Americans would be on the welfare rolls, and many now on welfare would draw higher benefits. That prospect—12 million more Americans drawing federal and state welfare payments—is sufficient to explain the nation-wide pattern of government lawlessness.

The very size of the federal operation encourages malpractice from those who believe that laws should be followed not when they are just, but only when they are enforceable. But an even greater asset to federal lawlessness, as illustrated in the HEW report, is its statistical style. When bureaucrats blink at the law, it is not the bizarre, daredevil, and personal kind of scandal that becomes newsworthy and feeds the public fantasy, like the Senator accepting a bribe or free rides in some lobbyist's airplane. For like so much else in the bureaucracy, its illegality is strikingly devoid of flair, of passion, and of individuality. If it is hidden from the public, it hides not behind a well-constructed shield of secrecy, but behind a camouflage of boredom. Federal lawlessness is the result of a systematic series of decisions that become impersonal and eventually uninteresting, except to the victims. It is no thrill; it is a sure thing, accomplished from nine to five, with regular coffee breaks.

The exasperating technicality and organization of this bureaucratic lawbreaking gives it a permanent immunity. The immunity is preserved through channels of correction that are as winding and endless as the channels of violation. Although John D. Twiname, HEW social and rehabilitation administrator, emphasizes that "obviously, we cannot permit non-compliance with federal requirements," his organization continues to do just that.

"We are making every attempt," Twiname says, "through our regional offices, to *negotiate* with the states to resolve the issues. But when these efforts do not bear fruit, after a six-month negotiating period, we will bring our Washington offices into the picture and examine every apparent violation carefully to determine whether federal hearings should be held."

HEW's enforcement formula in itself seems like undue process. It shouldn't take six months of negotiating (what is there to negotiate about?), while states are still using federal money illegally, to decide to examine what you already knew in the first place—that the law is being broken. But the actual delays in enforcement have far exceeded even the ones that are built into the system.

It has taken HEW more than three years to threaten to hold hearings for states that have not complied with a 1967 law requiring them to adjust maximum welfare levels to correspond with higher costs of living. Recently, HEW announced that it has finally scheduled hearings for three such states, and for Arizona, the latter for failing to comply with residence requirements. But HEW has not announced hearings to deal with the massive list of other violations that it admits continue to occur in 39 states.

Even if HEW hasn't pursued the lawbreakers, it at least admits that the laws are being broken. It is, in this sense, far more civilized than other federal agencies, where it is difficult to figure out exactly what the law is or which conflicting law applies. In some cases, federal lawlessness is not only a condition

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where specific laws are not upheld, but also one in which there are so many rules and regulations as to make any law essentially meaningless.

Although bureaucracy, on the face of it, is the opposite of anarchy, being over-organized rather than under-organized, it may be a better means of achieving the ends that anarchy desires. The longer an organization exists, the more chance it has of reaching the point of diminishing returns, the condition of overlaw, where any action can be justified by some rule or another and where no action is any more or less legal than any other. When bureaucracy, becomes a memocracy, it also erodes into an on-going federal riot, where any additional regulation only further obscures the meaning of whatever the organization is supposed to be doing, or of what the original statute says. This has happened in the Bureau of Indian Affairs, where the bureaucrats have virtually unchecked power over Indians' lives and can justify any decision through the Indian Affairs Manual, which fills 33 volumes that stack some 6 feet high and contains more than 2,000 regulations, 389 treaties, 5,000 statutes, 2,000 federal court decisions, and 500 opinions of the Attorney General. The manual is the product of years of bureaucratic sedimentation—procedure piled on procedure, law on law—until even legal scholars can no longer make any sense out of it.

When little internal laws help men break larger laws that were the basis for setting up an organization in the first place, we are far along the road to the system that Hannah Arendt describes in her recent book *On Violence*. She defines bureaucracy as:

> . . .the rule of an intricate system of bureaus in which no men, neither one nor the best, neither the few nor the many, can be held responsible, and which could be properly called rule by Nobody. (If, in accord with traditional political thought, we identify tyranny as government that is not held to give account of itself, rule by Nobody is clearly the most tyrannical of all, since there is no one left who could even be asked to answer for what is being done. It is this state of affairs, making it impossible to localize responsibility and to identify the enemy, that is among the most potent causes of the current world-wide rebellious unrest, its chaotic nature, and its dangerous tendency to get out of control and to run amuck.)

But while bureaucracy gets more uncontrollable as it grows, it retains the ability to respond quickly to certain outside pressures. Although it may be government by Nobody, it does please certain people and serves those people very effectively. A few groups have learned to manipulate the bureaucracy to get from it what they want. Unfortunately, they are not the groups that the agencies were set up to help, but the ones they were set up to counterbalance.

Food commodity programs, for example, can be molded to become another asset for producers instead of for the hungry—guided not by what the poor need to eat, but by what the big farmers want to unload. Thus, Nobody operates as a disguise for the designs of those groups that use lawless programs for their own ends. The best example of how interests can accomplish this is found in the relocation programs of the Department of Housing and Urban Development.

In urban relocation, the legislative intent is clear. As early as 1949, Congress required that no contracts for local renewal programs be signed until "there are or are being provided . . . decent, safe, and sanitary dwellings equal in number to the number of and available to" displaced families. When it was found that the requirement was not being complied with, it was reiterated several times by Congress. By 1969, nothing had changed. Things had even gotten worse, since many slum areas were being replaced by affluent housing while the poor were forced into more compact and squalid ghettos by the same federal money that was supposed to help improve their living conditions.

Requiring that urban relocators provide poor people with housing did not facilitate the quick flattening of areas

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"An illegal program, HUD argues, is better than no program at all."

that was necessary to get the money flowing into the cities, nor did such a requirement please the economic interests who could get much more for their money by building middle-class dwellings and office buildings. Therefore, the deliberate lying to overstate the amount of housing available to displaced people was merely a convenient means of sacrificing the law to benefit expediency and profit.

The Government Accounting Office (GAO) has documented HUD's failure to do anything about such practices: "Although HUD was aware that the City of Cleveland had serious deficiencies relating to existing housing codes and their enforcement and was also aware that the calling of these deficiencies to the attention of responsible city officials was not bringing results, it continued to recertify the city's workable program."

The same thing was occurring across the nation, as substitute housing for renewal victims was compiled from classified ad sections of newspapers, from drive-by inspections, from substandard dwellings, from areas soon to be demolished, and sometimes was even counted three or four times in an effort to provide the illusion that those being moved out of the slums had places to go. All these evasions avoided nasty delays in the "progress" of cities.

There is a long history in urban renewal of discrepancies between local office records and the ones sent to HUD regional offices, where grant applications are processed. In one city, 23 of 24 randomly-selected families from one project and 25 of 35 in another were found to be living in substandard housing, although local reports said that all had been relocated into acceptable dwellings.

The way the housing figures were compiled in Newark, New Jersey, illustrates how many people can be left out in the cold after such relocation shell games. In November, 1967, Newark claimed it had 3,668 vacancies available for people removed by relocation. Of these, however, 1,187 vacancies were located in areas designed for clearance or removal in the near future, which meant a family would be forced out of one demolition area and into another. Out of the remaining 2,481 vacancies, 24 per cent were in substandard condition. So there were about 1,800 vacant dwellings fit for occupation—and of those it is not known how many fell outside the accepted residential zones or could have been disqualified for other reasons.

As a result of this chicanery, at least half of the displaced families in Newark that year were removed from their homes with nowhere to go. In Camden, New Jersey, similar statistical maneuvering meant that housing vacancies were overstated by 1600 per cent. What happened in the Northgate section of Camden dramatizes how people are victimized by such numbers. Demolition was in process there, and many residents, without substitute housing, remained in their old homes, facing daily fires, widespread vandalism, collapsing walls, rubble-littered streets, and rampant rat invasion—conditions that rival any produced by the ghetto riots that occurred across the country at about the same time.

But while rioters are shot or arrested, the bureaucrats in HUD have been protected, individually and collectively, from the consequences of their own illegal acts. HUD, like HEW, according to Edgar Cahn, director of the Citizens Advocate Center in Washington, D. C., refuses to consider sanctions against lawbreakers that would be reasonable and

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"The very enactment of a program deprives the disadvantaged group of the legitimacy of protest. . . ."

enforceable. It insists that the only remedy at its disposal is the total abolition of any relocation program in which wrongdoing is discovered. An illegal program, it argues, is better than no program at all.

Aside from the fact that this is not true from the point of view of the person removed from his home (if there were no program, he would not be removed), HUD's all-or-nothing defense protects it from the law as surely as an overtime parker would be protected if capital punishment were the only means of enforcing parking violations. By refusing to ask Congress for lesser sanctions, the agency effectively shields itself against having to act. What HUD means to say is that an illegal program is better than a legal one in that it pleases the right people. And Congress only asks polite questions about why its mandates have been violated. It has never threatened to cut off HUD funds. In fact by 1969, in the 20th year of HUD lawlessness, Congress merely required the Secretary of HUD to "review" local relocation plans and implementations at least every two years.

Thus, the bureaucracy can be molded, even made to break its laws, to fit certain trends or interests. It is when it confronts the powerless, the people it was supposed to help, that the bureaucracy becomes a brutal and invisible enemy. It is noteworthy that one part of HEW, the Social Security Administration, has an excellent record of obeying the law, of handling grievances, and of informing people of their rights. But people on social security have clout; they are not outcasts like welfare recipients.

The benevolent and do-good agencies like HEW were supposed to be the allies of poor people, to fill the vacuum of power that exists with disenfranchised groups, to plug the holes of poverty and despair, to remedy the pockmarks and sores left by the unchecked flows of business and politics in America. But it was illusory to expect that those agencies would not soon have to answer to the same power and interest groups that produced the need for federal intervention in the first place. It was more than optimistic to hope that the agencies set up to work where the free enterprise system had done the most damage would not be thwarted by the same factors that made that system (naturally unreformable.)

Bureaucratic lawlessness ends up serving bureaucratic self-interest. It is easier to weather a complaint from a black welfare mother who doesn't get her check this month than it is to outrage a white Senator who wonders why federal or state agencies should waste their time listening to black people. It is easier to "inconvenience" a ghetto resident by removing him from his home during urban renewal without providing him substitute housing than it is to inconvenience some eager developer and his friends in public office who don't want to wait until such housing is found before they start profitably razing the neighborhood. It is more politic to serve the oil man who wants the Indian land than to help the Indian defend that land.

The powerful will accept a theoretical statement about the rights of the poor, as contained in the legislation that sets up federal agencies, but may resist if any real change in the relationship between them and the poor becomes possible. Many times we find that the best way for a bureaucracy to succeed (continue to exist) is not to do what it was established to do. OEO's legal services operation, as described in the June *Washing-*

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". . . .A bad program that gives lip service to social progress is a good way to keep people in their place."

ton Monthly, is one of those programs that is too successful to be continued. Cahn says that the Child Development Group in Mississippi, another OEO program, was arbitrarily discontinued in 1965, without proper hearing because it had achieved all too well the goals of maximum feasible participation of the poor. The reality of the black poor running their own program was too much for OEO—or the white Mississippi politicans—to accept. So the program was scrapped in favor of more "legitimate" ones.

Lawlessness in the government also results when statutes (what the government says it wants to do) don't correspond to realities (what the government really wants to do). Much of the benevolent legislation is passed during liberal high-water marks, when the composition of Congress is most advantageous and when all available political capital is expended on getting the bill passed, leaving little for ensuring enforcement. Badgering bureaucrats for enforcement is at best unrewarding for the Congressman. He can gain headlines and favor with liberal constituencies by helping to pass the enabling legislation. But those constituencies, not being directly victimized by the agency's lawlessness, will not subsequently press him to fight for enforcement. In his role as ombudsman, the Congressman is much more likely to hear from, and respond to, an urban developer who complains that his profits are being held up by some silly federal technicality, than he is likely to respond to the developer's victims.

The compromise between those who want a good program and those who don't care if there is any program at all turns out to be an unenforced program. Breaking the law bridges the gap between diverse interests, and becomes a political entente, a savvy arrangement in which all interests (those that serve justice and those that serve power) are taken into account, the laws satisfying the former, and the programs the latter.

Federal programs can also serve those who are essentially opposed to their success because the very enactment of a program deprives any disadvantaged group of the legitimacy of protest. When the regulatory agencies took the fervor from the muckrakers and turned it over to bureaucratic muckpassers inside the government, the policing of industry became automatically the province of the government, not of the people, and any further non-governmental action could be countered with the argument that the problem was now the job of government. Likewise, the poverty and welfare programs, good or bad, deprive the poor of any further public leverage. "You've got welfare, you've got tax money and free food, now why are you bitching?" To the many voters who believe that the enactment of a program equals solution of the problem, the idea of people on welfare protesting about anything (even if they aren't getting the welfare) is abhorrent. One good way to keep people in their place is to establish a bad program that gives lip service to the concept of social progress.

Since poor people have little say in relocation and welfare policy and since the bureaucracy is shielded from the political push and pull of the electorate, a person denied his rights by a government agency has little means of regaining them. The courts are a possibility, but, as Cahn points out, nobody has the "right" to do business with the government, and courts have been wary of using their judicial prerogative to perform what should be government's watchdog function. If a person is illeg-

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"The Indian is a pioneer in the total trusteeship society. . . ."

ally cut off welfare, it is hard for him to prove it, especially if he has no access to the basic regulations that are used to justify such decisions. It is usually impossible for him to spend the money and time it takes to sue the government. In some cases where suits are brought, court decisions have not forced bureaucracy to desist from unlawful practices. And often people who bring such suits are induced to settle out of court, so that no judicial precedent can be established.

A more real possibility would be to organize the poor to demand fair and legal treatment, much as the workers banded together in unions to meet the power of the companies. But welfare and other federal program recipients, unlike union workers, have nothing to give to the government, no services with which to bargain. It is possible to imagine welfare boycotts, where large numbers of people refuse the bureaucratic services until some wrong is redressed, but it is not probable that needy people could refuse welfare checks in an attempt to reform the system. And even if they could, the bureaucracy might find ways to keep on functioning as if those people did not exist, sending the money down and diverting it into other pockets. The government is too large to be treated as the unions treated companies during the early stages of bargaining. And as long as the non-welfare public believes that people on welfare don't deserve it anyway, then any protest against the welfare system, however justified, will not get needed outside support.

The other possibility is that the groups now receiving government services or money will gain political power and become an "interest" to be taken into account. Politicians might have to worry about getting the welfare vote, the handicapped vote, the substandard occupant vote, much as they now worry about the Jewish vote or the Wall Street vote. Depending on their size, such new political subgroups might form a natural check on federal lawlessness and provide the impetus for Congress to police the Executive Branch.

This dream is interrupted, however, by the bureaucracy itself, which, as it grows to take in more areas of social concern, becomes the greatest obstacle to the poor man's chances of acquiring power. America sets up massive legions of experts whose stated goal is to program people into self-sufficiency. The contradiction in this is most apparent where the government has become most all-encompassing, on the Indian reservations.

For non-Indians, the Indian story has in it more than a mere compassionate rendering of the condition of one more oppressed group. It may warn us about the state of our own future under a pervasive and institutionalized banditry that governs in the name of "our own good." For as the Indian was a pioneer on our land, so he is the pioneer in the total trusteeship society, the Great American Welfare State, where in the name of efficiency, expertise, and most qualified leadership, every aspect of his life is controlled—from health, schools, politics, economics, and trade to his private pocketbook. As government grows, more people are becoming Indians.

The Bill of Rights was not extended to Indians until 1968, and they still have almost no judicial access, little political power, and hardly any economic control. But they do have the Bureau of Indian Affairs, and its thousands of experts, to protect them from themselves. BIA, with all those treaties and statutes behind it, carries on a loud and almost obscene monologue with Indians, denying them lawyers, forcing their children to go to school thousands of

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". . . .as government grows, more people are becoming Indians."

miles away, making them pay exorbitant rates on the trading-post monopolies supervised by the BIA, and cheating them out of their land. Although examples of BIA noncompliance could go on ad absurdum, conditions on the reservations speak more convincingly as to the effect of BIA rule.

While white men continue to delve into Indian psyche to find cultural keys to his lack of "development," the real reasons have more to do with the BIA. Since that agency makes all major decisions on reservations and is solely responsible for the Indians *in loco parentis*, who else could be held accountable for the fact that Indians have lost much of the land the government guaranteed them (from 138 million acres in 1887 to 55 million in 1966), that the mineral assets of reservations have been exploited by outsiders, that they have no economic opportunity, and that health conditions are generally among the worst in the nation?

The BIA has made Indians so dependent on it that most Indians, though recognizing the agency as an enemy, do not support the idea of abolishing it. To further this condition, the BIA attempts not to get Indians off welfare but to get them on it. It encourages them to sell their land (a pre-condition for welfare) and then doles out the money in small parcels often below subsistence levels. The more Indians on welfare, the more control the BIA has over their lives, and the more the assets of the reservation can be manipulated to fall into the hands of developers and economic interests. And the more the Indian's life erodes, the more BIA bureaucrats are needed to do something about it.

If this seems like a cynical assessment of the role of a federal agency, consider the Pine Ridge Reservation in South Dakota, second largest in the nation, where, according to Cahn's study, about $8,000 a year is spent per family to help the Oglala Sioux, and yet the median income of those same families is only $1,910. The rest of the money supports the BIA officers—one for each family on the reservation—who are there to raise the Indians' living standard. Although it would seem obvious that the way to do this would be to eliminate the bureaucrats and give the money to the Indians directly, thus immediately raising their incomes from $1,910 a year to $8,000 a year, such a move would not inspire Indian "self-sufficiency" or the growth rate of the BIA.

Indian poverty is an important industry, feeding thousands of white men and creating for them the illusion of work. The last thing the industry, as a whole, would accept is the very idea on which it was launched—Indian self-sufficiency and economic equality. Thus lawlessness, in its broadest sense, serves the bureaucracy by continually aggravating the bad conditions upon which it depends. Benevolent bureaucracies grow only if problems grow. Problems grow if lawlessness grows.

Federal lawlessness may be the ultimate solution to the middle-class employment problem, as the bureaucracy becomes a kind of middle-class welfare program where thousands are paid to administer non-programs. If bureaucracy is the tapeworm of despair, its lawlessness may move us toward a nation in which most citizens either work for, or are worked on, by the federal government. If half a nation can administer programs to the other half, we may eliminate unemployment by handing money back and forth between us, while machines do all the real work. The federal government and television may be the two great means of filling in leisure time.

But as the government grows through its own lawlessness and inefficiency, we

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may find that the highest price will be paid not in the areas the bureaucrats' work affects, but in the offices where the bureaucrats work. Even the actors in an illegal system cannot long believe in what they are doing. Lawlessness inside the government encourages the same sense of degradation, hopelessness, and immorality that the urban ghetto is said to produce. It remains to be seen whether the result of this will be hard-core bureaucratic crime, with administrative muggings, dossier thefts, inter-desk gang wars, stabbings, and smuggling of unwanted memos, or, in the fresh and unlawful vision of George Wallace, all those briefcases floating down the Potomac.

As President Johnson's Commission on Law Enforcement and Administration of Justice said: "Finally, no system, however well-staffed or organized, no level of material well-being for all, will rid a society of crime if there is not a widespread ethical motivation, and a widespread belief that by and large the government and the social order deserve credence, respect, and loyalty." ■

CITIZEN'S ADVOCATE CENTER PROPOSALS

The Citizens Advocate Center, a privately-funded organization, began in 1967 to investigate illegal practices in federal grant-making agencies. Much of the information for this article comes from research at the Center and from its book on Indian affairs: *Our Brother's Keeper: The Indian in White America.*

After publicizing patterns of federal lawlessness, however, Edgar Cahn, who runs the Center, and his wife Jean, who is also a lawyer, have concluded that merely exposing such practices is not enough to stop them. Even repeated reports by the General Accounting Office (GAO) to Congress and various legal suits brought against the agencies have not forced them to follow regulations.

The Center is currently exploring new ways that the agencies could be made to enforce the law. Its proposals include:

(1) Congress must rely on already-established policing mechanisms, like the GAO, to report more thoroughly on lawbreaking along the entire bureaucratic chain of command, from federal agency down to local administrators. Congress must be prepared to act on GAO's findings.

(2) Congress must legislate sanctions that make bureaucrats responsible for and answerable to their actions, bringing them out of the shell of immunity that shields them from the public. It must find ways to punish lawbreakers without cutting off all the funds to programs in which the regulations are not followed.

(3) A new watchdog agency should be established, consolidating the hodgepodge of investigative powers now shared by various offices. This agency should have the means not only to monitor programs, but also to enforce the law by bringing punitive and corrective actions against lawbreakers.

The new agency should open channels through which the victims of lawlessness could reach those responsible for it, a link between those who are supposed to benefit from programs and those who run them. The watchdog agency should provide easy means—including local offices—for people to bring complaints against bureaucratic procedures.

The agency, according to Cahn, should serve as a federal ombudsman, giving the people affected by government programs a needed voice in how the programs are run.

an awful lot of general rhetoric in article
this one needs documentation
public cause good [illegible] do any

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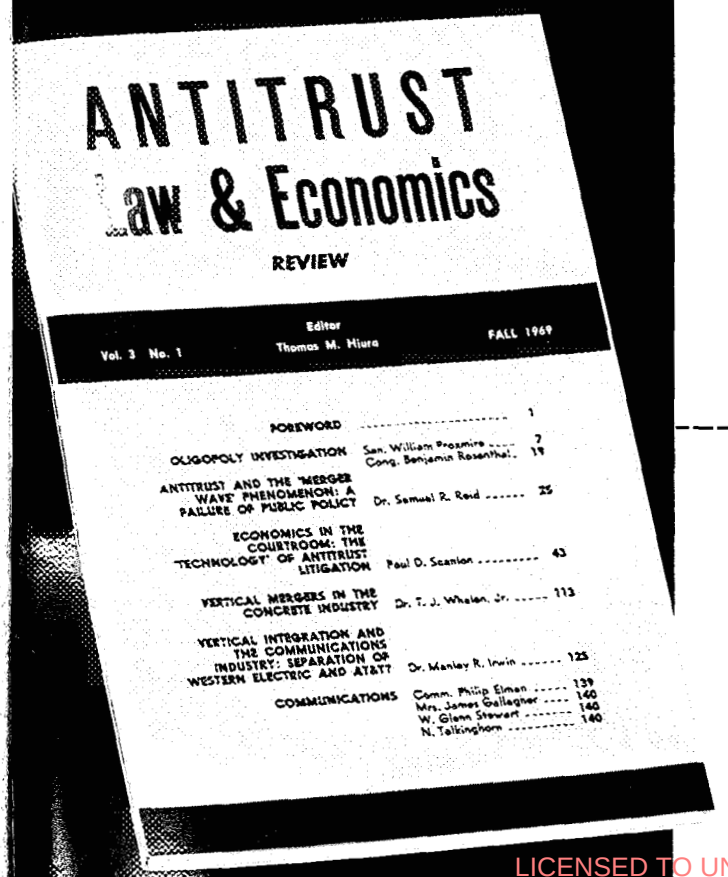
Monopoly costs more than the war in Vietnam?


ANTITRUST
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FOREWORD 1
OLIGOPOLY INVESTIGATION Sen. William Proxmire 7
Cong. Benjamin Rosenthal. 19
ANTITRUST AND THE 'MERGER WAVE' PHENOMENON: A FAILURE OF PUBLIC POLICY Dr. Samuel R. Reid 25
ECONOMICS IN THE COURTROOM: THE 'TECHNOLOGY' OF ANTITRUST LITIGATION Paul O. Scanlon 43
VERTICAL MERGERS IN THE CONCRETE INDUSTRY Dr. T. J. Whelan, Jr. 113
VERTICAL INTEGRATION AND THE COMMUNICATIONS INDUSTRY: SEPARATION OF WESTERN ELECTRIC AND AT&T? Dr. Manley R. Irwin 125
COMMUNICATIONS Comm. Philip Elman 139
Mrs. James Gallagher 140
W. Glenn Stewart 140
N. Talkinghorn 140

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